



John Forrest MP

Federal Member for Mallee



SUBMISSION TO THE REVIEW OF NON-FORESTRY MANAGED INVESTMENT SCHEMES.

Business Tax Division, The Treasury, Langton Crescent, Parkes, ACT 2600. Fax 02 6263 4466, email misreview@treasury.gov.au.

Attention, Assistant Treasurer and Minister for Competition Policy and Consumer Affairs Chris Bowen MP

Dear Chris,

My established position on the provision of up-front tax breaks for corporate entities is to oppose vehemently, on the basis that the tax breaks distort investment decisions and do not lead to a level playing field, in comparison to the challenges confronted by the family owned horticultural enterprises, which I represent along the Murray Valley.

While new investment is always welcome in regional Australia including the Murray Valley, MIS have not been popular in many parts because they are seen to not operate on the same financial terms as other irrigated agriculture enterprises.

MIS participants appear to have limited risk compared to other farmers, whether family owned or corporate. MIS investments should be on the same basis as an owner, shareholder or unit holder.

The Australian Tax Office is challenging the tax deductibility of participant contribution ... and so it should.

Participants in MIS are more likely to make their investment decisions on tax deductibility rather than market demand for the commodities produced.

Generally, the tax deductibility is seen as an unfair advantage, along with the additional demand for scarce water and land in competition with existing owner-operator farmers.

The tax deductibility is promoted as a benefit of MIS, rather than the income. The up-front deductibility gives cheaper finance over other irrigated farmers to start projects and buy land and water.

While some say the tax benefits are available to all, in reality, this is not the case, particularly for the family owned and operated farm.



The complexity and cost of setting up a MIS to establish or expand a farm business is almost certainly beyond the financial capacity of most.

Initial contributions to MIS by participants are almost exclusively tax deductible.

The land and infrastructure is acquired by the MIS operator or a third party and MIS participants only pay management fees and lease or licence fees. There are no, or few, fees that are identified as capital expenditure, and yet the up-front fees often appear to be used to fund capital items.

The tax breaks usually come before any income from the investment, and because of the tax deductibility, a lower return from the investment is acceptable to the MIS participant.

MIS participants do not manage or take part in the operation of projects, they do not employ, rarely own the farm asset and they contract everything to the MIS operator and third parties.

This makes the MIS participant a passive investor, not a person carrying on a separate business.

The proliferation of MIS across the nation and particularly along the Murray Valley in my electorate, can only be described as endemic.

As an engineer, formerly comprehensively involved in irrigation projects, I am alarmed at the waste of capital resources in the installation of huge storage dams which do not comply with sound engineering principles when it comes to seepage and evaporation.

There seems to be no accountability or construction cost supervision because of the capacity to expend huge amounts of easily obtained capital in a hurry.

In addition, the capacity to purchase enormous volumes of water has created massive price distortion in the water market, leaving my family-owned enterprises hard pressed to match.

It is my expectation that Treasury supports the position of the Australian Tax Office to prevent the up-front tax deductibility for remote investors which, in my view, is five years too late.

Yours sincerely,

John Forrest, Member for Mallee.

Friday, September 12, 2008.