

## Managed Investment Scheme Review

Dear Sirs

Since their arrival in the horticultural industry I have been a strong opponent of these contrived tax avoidance devices.

They have been and continue to pose the greatest threat to “Farming for profit” horticulturists that have ever existed, this is due to the fact that the company’s marketing these “products” do not in any way rely on these developments operating profitably, rather they are set up in a way that they rely on having an annual supply of new investments to sell to individuals with a perceived tax problem, and once they have sold these individuals “the investment” they receive from them an annual management fee again regardless of the performance of the investment.

My extrapolations have determined that the promoting company’s generate profits of around \$5,000 per Ha of each new development they sell, the collapse in their share price that followed the announcement of the cessation of their eligibility to the tax benefits they had enjoyed bears witness to this.

Corporate involvement in horticulture is not new, and has never been opposed when it has operated on the same footing as conventional horticulture, there are some crops that need to be farmed on a large scale to obtain the required economies of scale, individual farmers and corporates have taken on these challenges, but one problem that has been a consistent problem for the corporates is disposing of the asset once there is a change in investment priorities or the individual wishes to retire from the business.

This is due to the fact that the returns on sums invested rarely meet accepted business norms plus property values fluctuate with the profitability of the commodity.

Citrus has been one commodity that has been of attraction to corporate style operations eg Kangara, Yandilla Park, Simarloo plus listed companies: EAC and Chiquita both of the latter were market failures as their returns were never sufficient to satisfy the markets and it is interesting to see that all of these companies are now in the hands of a MIS promoter.

In the area where I have my horticultural enterprise there have been MIS developments in Citrus, Wine Grapes, Table Grapes, Olives & Almonds, all of the limited evidence available indicates that the Citrus, Table Grape and Olive developments have been pretty disastrous and the Wine grape and almond enterprises are nowhere as profitable (if profitable) as those of efficient family farmers.

Recently one of the largest olive grove operators Barkworth Olives made the decision that grubbing out its young 500 Ha MIA olive grove and selling of its water right would provide its shareholders with a better financial outcome than continuing growing olives.

The Tandou Company which had developed a large vineyard at Lake Cullulleraine in Northwest Vic was effectively forced by its bankers to sell this vineyard for \$45,000 per Ha to retire debt rather than continuing producing grapes from it.

Amazingly it was purchased by a MIS promoter who sold 20 year leases of the vineyard for \$78,000 per Ha

Were Tandous bankers stupid or were the tax avoidance benefits of the investment what attracted investors?

A key element of the MIS industry is that it allows the promoting company's to "lay off" all of the risk to the investors or lessee's of its developments, a benefit not available to traditional horticulturists who have to carry the risk of any investment they make.

Another element is that because there are a multitude of investors in each development who do not know each other and never have the opportunity to get to meet each other at say an AGM which shareholders in a Company can do, they have very little chance of making an assessment of the annual fees they are charged by their management company or call for competitive tenders to ensure they are not being ripped off.

Recently in the Sunraysia area ownership changes of 2 large corporate farms saw the sacking of their Management Company "Agri Exchange" (owned by a MIS operator) and their replacement with a better value operator.

The tax rulings applicable to "bona fide" horticulturists are also available to the MIS promoters if they wished to invest their shareholders money in horticultural developments.

Alternatively they could set up specific company's or trusts into which would be horticultural investors could put their money plus have them obtain borrowings to do the developments, they would gain all the tax rulings of traditional horticulturists plus instead of only having a non saleable 20 year lease of a development they would have equity in the development and have a share which would be tradable.

It is puzzling why this is not being done!

My belief is that MIS promoters would find such an option extremely onerous as under Company Law requirements prospectuses have to have a high degree of honesty and also an honest projection of projected returns.

The promotional material published promoting MIS projects would not meet these requirements and once they were modified to do so the projected returns would be so unattractive no one would invest in them.

While some individuals and Councils are enamoured to see these "no expense spared" developments occurring in there region, I don't believe many of them have projected forward as to what will become of them when the 20 year MIS leases expire.

Clearly the promoting company will not want to be stuck with a loss making "asset"(liability) indeed a number of the MIS promoters have already sold these developments into unlisted trusts into which they have attracted investors such as Super Funds.

These funds receive a rental for the property paid by the MIS promoter who passes on the rental plus their charges to the MIS lessee(investor) no of these rentals/charges have any relation to the developments profitability so obviously once the lessee's term expires then

the rental payments will disappear and all that will be left will be the developments returns or deficits.

An interesting aspect to the MIS industry that I have noted in the 6 month figures of one promoter is the fact that it has made substantial loans to induce investors to purchase leases in these developments, obviously responsible banks would not advance borrowings where there is no security other than a 20 year lease over an asset unlikely ever to generate a return.

In these 6 month figures a considerable debt provision has been made for non repayment of these loans.

This clearly indicates that either the borrower has lost faith in the investment ever providing any sort of return on the borrowing, or the whole investment was a “bit dodgy”

The share prices of these promoting company’s are very sensitive to the volume of sales of MIS investments plus the company’s profit.

Each Ha of development sold generates a paper profit of \$5,000 plus adds to the volume of product sold even if the money for the sale has been lent by the company to the buyer.

A ruse perpetrated in the gold rush days for a seller of a gold mine lease was to “salt” the lease with gold.

I would never suggest any MIS promoters would do anything similar although there was a case with a timber MIS scheme where the promoting company bought the timber from the investors lots for a price substantially above market value (clearly they had a good reason for this)

#### Secondary Markets

Although a secondary market for timber MIS products has been promised, it has unfortunately not yet eventuated,

What I would love to see would be a secondary market for Horticultural products set up pronto.

There can be no better way to discover a products value than to provide a market where it can be traded.

And when people can see the value of a product 5, 10 or 15 years down the track they will really be able to judge the veracity of the salesmans patter.

Yours Sincerely

Lance G Milne  
RMB 8920  
Red Cliffs  
Vic 3496