RFA Private Forest Reserve Program

Inquiries : Steven Smith
Phone : 03 6233 7688
Fax : 03 6234 2457
Email : sjsmith@dpiwe.tas.gov.au
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Ms Sarah Hnatiuk, Inquiry Secretary
House of Representatives' Standing Committee on Environment and Heritage
Parliament House
Canberra, ACT 2600

Dear Ms Hnatiuk,

HOUSE ENVIRONMENT COMMITTEE INQUIRY INTO
PUBLIC GOOD CONSERVATION
Tasmanian RFA Private Forest Reserve Program and Capital Gains Tax (CGT)

A submission on behalf of the Tasmanian RFA Private Forest Reserve Program

I am grateful to have the opportunity of making a submission to the inquiry into 'public good conservation', that is being conducted by the House of Representatives' Standing Committee on Environment and Heritage.

The *Taxation Laws Amendment Act No. 8*, which came into force on 1 July 2000, gave welcome encouragement and rewards for public good conservation, however it failed to redress a significant impediment to public good conservation that continues to impede the Tasmanian RFA Private Forest Reserve Program.

At present, the Tasmanian RFA Private Forest Reserve Program is Australia's only program directed at developing a voluntary private land CAR reserve system. However, NSW is soon likely to follow suit with the Eden RFA Private Forest Reserve Program.

In Tasmania, landowners who decide to accept a modest financial 'consideration' for placing a covenant in perpetuity on their land are required to pay capital gains tax (CGT) on that sum of money. If the landowners chose, instead, to harvest the native forests on their land for timber, and if they have owned their land since before September 1985, the money that they receive for the timber is neither assessable as income nor as capital gains. Landowners are very much aware of this disincentive for nature conservation and it impedes progress of the Private Forest Reserve Program.

Taxation Ruling TR 95/6 considers the extent to which receipts derived from the sale of timber constitute assessable income, and the principles in Ashgrove's case are incorporated in this ruling. However, it is generally the case that if an owner of pre-CGT land (i.e. pre 20 September 1985) sells timber on the land under one of the Stanton Agreements considered in Ashgrove, then the proceeds of sale of the timber are a mere realisation of a part of the pre CGT capital asset of the taxpayer, and are not income according to ordinary concepts***. In these circumstances, the proceeds of the sale are neither assessable as capital gains nor as income***.

The effect of this situation is that landowners are penalised for making a 'donation' in perpetuity of land for nature conservation.

Although these landowners are receiving a sum of money as a 'consideration', the amount that is offered is a fraction (about one third) of the market value of the land, and an even smaller fraction of the commercial value of timber on the land. Most landowners could make greater profits by harvesting their timber.

Landowners, who decide to covenant their forests in perpetuity to contribute to Australia's CAR reserve system, are making a generous donation to the public good. The current application of capital gains tax to the relatively small sum of money that they receive as a 'consideration' is a significant disincentive and inequitable treatment of people wanting to make a philanthropic contribution to the nation's public good.

The inconsistency between the Government's policy of encouraging philanthropy among private landowners on the one hand, and current capital gains tax legislation on the other, has been a matter of concern to the Tasmanian Farmers and Graziers Assocation for some time.

Any assistance that you can give to correcting this situation would benefit nature conservation in Australia, and would assist the Tasmanian RFA Private Forest Reserve Program to achieve its objective of establishing the best possible CAR reserve system on private land.

Yours sincerely

STEVEN SMITH
Manager, Private Forest Reserve Program

cc. Kate Kent (Department of Premier and Cabinet)