

20 February 2006

Dear Secretary

We wish to expand on one aspect which relates to two of your topics.

It concerns the impact of the interaction between self-assessment and complex legislation and rulings

Para 3 and the application of common standards of practice by the ATO across Australia, what might be called the Clipsal paradox.

On 13th May 1996 Martin Bennett of Minter Ellison in Sydney applied for ASIC registration of The Good Oil Plantation Project No 3, located near Port Macquarie. (This was the same day that LG Appleton Deputy Commissioner issued a letter to Australian Rural Group saying that deductions for the Tumut River Orchard Project were allowable). The Good Oil No 3 was to have a minimum of 300 investors' 0.4 ha farms and a maximum of 450. The investment was supported by an upfront loan of \$23000 per applicant available to any applicant who chose to take it. The lender was Rural Equity (No. 3) Pty Ltd ACN 073 479 231, and the manager, landholder and lender all had the address Suite 4, 854 Pacific Highway, Gordon. The Loan suggests that Rural Equity No. 3 could lend at least \$6.9m. In all there were six The Good Oil projects.

Now the factor that the ATO consistently focused on with the MMTEIs was the round robin loan brought about by having lenders who did not have the ability to lend the total sum that the prospectus indicated, and therefore needing to do this by a round robin.

The Good Oil projects were not attacked by the ATO, or they certainly don't appear in the list of 174 for which the ATO offered settlement in February 2002. We attended a Taxation Institute of Australia seminar in Perth in February 2002 and asked Asst Commissioner Cheryl Lea Field why The Good Oil investors had not been put through what our members had been put through. She replied that The Good Oil was "boutique." So as an example of whether the ATO applies common standards, the Committee may wish to ask the ATO whether it concluded that Rural Equity No 3 was capable of lending up to \$10.35 m without round robin. If it was, then the ATO was consistent, if it wasn't then the ATO wasn't consistent.

Australians for Tax Justice Inc
Box 7123 Cloisters Sq 6850.