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RE: Submission to review Non Forestry Managed Investment Schemes

Preamble:

This will be our third submission to Treasury re: Managed Investment Schemes (MIS), involving agriculture. We have fought these schemes and canvassed their impact upon rural communities, agriculture, the Australian economy, property rights, equity, competition, the environment, about the hypocrisy they exemplify re market forces and proper allocative processes to achieve optimal economic outcomes. We are totally opposed to their existence, and we include forestry in this.

There appears to be a political penchant for arguing the free market allocative process as the key mechanism for arriving at best economic outcomes. Reality of course fails every test when measured against this rhetoric. MIS could not be more opposite to this rhetoric.

A compelling aspect to this review should be the history of the two most dominant and culturally relevant national economies to Australia, namely U.S. and Great Britain, under the Margaret Thatcher and Ronald Reagan. Both dispensed with MIS schemes affecting agriculture in the 1980's, precisely for the reasons we have argued for years. They and their successors have seen no reason to reinstate them. It should be noted, that both these economies are more competitive than Australia's, which still languishes as a highly concentrated monopoly/oligopoly type economy, enjoying corporate welfare at the expense of entrepreneurial small/medium businesses and consumer choice. Again MIS are the anti thesis for economic structural improvement.

A core to our argument turns on exactly the same issue the ATO has decided to test in the Federal Court, that is, the taxation treatment of the investors (that they are conducting a business), but also we find the product rulings highly controversial.

MIS schemes cannot be evaluated in isolation from the complimentary legislation for planning, and the direct subsidies provided to them. We are of the opinion that the whole picture indicates a deliberate policy to remove as many private owner operators from agriculture as possible, and to "pick winners" in the natural resource industry.

Further, we have called for (unsuccessfully to date) the federal government to provide a full and comprehensive opportunity costing for these schemes on, rural communities, their industries and the natural resource (water, land ownership), biodiversity, etc. It is amazing that their creators have, not assessed these schemes at the very least, for their impacts. It is interesting to note, that this review seeks to shift the onus to us to provide this information.

Tax avoidance schemes are exactly that, they are not appropriate for sound economic nation building. To be fully frank, yet another review on a subject well covered and subject to legal proceedings makes us wonder whether the current government was paying attention leading up to the 2007 election. We are of course under no illusion as to the degree of political pressure being exerted by the industry, but rather than expecting resolution to this issue of a review process, we place our faith in the democratic process. Thus our contribution will be limited in this document.

Tax Advantage

As stated, we agree with the Commissioner of taxation, "The investor is passive, thus no deduction should be available." Further, they have very limited liability. Combine this with product rulings that are not commercially based and which guarantee a profit margin in the 40%(at least) area and the advantage becomes complete. That is, both the investor and the MIS operator are advantaged over all other business entities and relationships. Effectively two benefits are derived from one economic activity.

We calculated that as a result, in forestry, the Australian taxpayer is effectively subsidising each hectare to the tune of \$3200 in revenue forgone. In non-forestry, even the previous government's assistant treasurer, Peter Dutton, asserted that the inflation of costs made it obvious that the activity was unsustainable. He referred to an example of \$12000 per hectare for horticulture being retailed to investors for \$40,000 p.a. All thanks to a tax avoidance and generous product ruling, MIS.

We can talk about similar circumstances around Australia, but perhaps the purchase of an existing wine operation (Palandari) for \$6 million and it's reselling via a MIS for \$60 million might be sufficient food for thought. All sponsored by the Australian taxpayer during a wine glut as a result of previous tax benefit arrangements.

The real business of an MIS operator is to attract investors to gain the immense profits. The real incentive of an investor is to gain tax deductions, the agricultural activity in the short term is peripheral, but in the long term, it is the acquisition of the natural resource (land, water) to control the supply of food, by the MIS operator. Risk is borne by the investor in the economic return from the agricultural activity, not the MIS operator. We think current returns from timber harvesting in the public interest, should be made available.

In non-forestry, the impact on irrigation re water acquisition has been disastrous. The continuous inflow of tax avoidance funds from investors overwhelms real farm operators in the depths of drought and import dumping. The subsequent growth has seen northwestern Victoria MIS irrigation grow 30,000 Ha with a water demand of 300 ggalitres. This is set to double. Yet we are told the COAG Murray Darling arrangements seek to rationalise allocations with a mind to community impacts.

Similarly, every state now has issues with a core problem of water over allocation, overlaid with a MIS corporate resource grab. Government expenditure on efficiencies to existing irrigation risks being wasted because of new expansion based on tax avoidance.

Non Forestry MIS Performance

To compare normal finance flows to tax avoidance investment figures is not relevant, rather it is indicative of two completely different arrangements operating in one unfair market.

Economies of scale must incorporate accurate market placement, labour efficiencies and minimum input costs per unit. Given, owner operators are the most efficient labour unit, highly market sensitive and able to produce much lower input costs. How can MIS claim economies of scale, rather they confuse this with large size. One wonders why, wine grapes are a target for increased supply?

We are overwhelmed by uninvited information from MIS employees as to current production practises, and can only encourage further review in this area.

The Environment and Regional Impacts

All the areas listed by the review have contact with SACA as well as many others. Because MIS is able to overwhelm their competitors, existing and new entrants to economic activity all are highly critical.

Scale and or economies of scale are glib claims but one only needs to look at the investor costs to see there is not too much finely tuned economic outlays to produce commodities for a good return. Personally, having toured vast areas of Australia looking at MIS, I can only state that if any government tries to claim good environmental outcomes, they do not deserve to hold office.

In relation to labour and MIS, we note that they have requested an increase in temporary work visa's, hardly a good endorsement for local regional employment.

Commodity Markets

There is the full array of ownership structures, that is, from sole operator to public company, to pursue business activity directed towards the provision of agricultural commodities. Why do we need another model, which is fundamentally different, and as a consequence advantage against all other models.

Further, the decision to produce a commodity (with MIS advantages), by definition causes business damage to competitors and the commodity. Our experience as agricultural producers does not lead us to believe that these schemes augur well for profitable national outcomes. There certainly is a bright future for food production, why do we need tax avoidance to form the basis of a core competitive advantage industry.

In conclusion, the Government needs to show clear economic and market leadership now. Follow the Thatcher/ Reagan example and cleanse our economy of these distortions.

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On behalf of SACA