TERMS OF REFERENCE

On 29 June 2000 the Senate referred to the Senate Economics Reference Committee the matter of mass marketed tax effective schemes and investor protection for inquiry and report with particular attention to:

- i. The adequacy of measures to promote investor understanding of the financial and taxation implications of tax effective schemes;
- ii. The conduct of, and the adequacy of measures for controlling, tax effective scheme designers, promoters and financial advisers; and
- iii. The ATO's approach towards and role in relation to mass marketed tax effective schemes.

TABLE OF CONTENTS

The Committee		iii
Terms of R	eference	v
Definitions		ix
Chapter 1	Introduction	1
Chapter 2	Nature and Scale of the Problem	3
	Risk to the Tax System	3
	The Human and Social Cost of the Problem	5
Chapter 3	The ATO's Position at Law	7
	Deductibility: General Provisions	8
	Part IVA	9
	221D Tax Instalment Variations	12
	Promoters	12
Chapter 4	The ATO, the Market and Investors	15
	The Growth of the MMS Market and the ATO Response	15
	Participant/Taxpayer Culpability - 'Tax Cheats' or	
	'Unwitting Victims'?	18
	The Role of the ATO Pre-1998	19
	Did Investors Act Reasonably?	26
	Prospective Versus Retrospective Action	29
	Drawing a Line in the Sand	31
Chapter 5	Current ATO Handling of MMS: Part IVA, Settlements and Debt Collection	37
	Individual Circumstances and Application of Part IVA	37
	Settlements	43
	Debt Recovery and Hardship Provisions	45

Chapter 6	Test Cases and Objections	49
	Test Case Litigation Program	50
	Deferring Recovery Action Pending the Outcome of Legal Action	51
	Test Case Delays	53
	Conclusions	53
Chapter 7	Conclusion	55
Minority Ro	eport - Liberal Senators	57
	ATO Concessions	58
	Recent ATO Concessions	59
	Fairness in Taxation	60
	Special Circumstances of Mass Marketed Tax Scheme Participants	60
	Finalising this Issue	61
	Conclusions and Recommendations	62
Additional	Comments	
Senator Wi	nston Crane, Liberal Senator for Western Australia	65
Appendix 1	Submissions Received	69
Appendix 2	Public Hearings and Witnesses	89
Appendix 3	Chronology of Tax Office Action on Aggressive Tax Planning	93