

# **Senate Rural and Regional Affairs and Transport References Committee**

## **Written Questions on Notice – Friday, 10 August 2012 CANBERRA**

### **Inquiry into the Examination of the Foreign Investment Review Board National Interest Test**

<b>Question Number</b>	<b>Page No's.</b>	<b>Witness</b>	<b>Question asked by</b>	<b>Answered</b>
1	-	ATO	-	16/8/12
1	-	ABS	Senator Nash	31/08/12
2	-	ABS	Senator Nash	31/08/12

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
REFERENCES COMMITTEE**

**Inquiry into the Examination of the Foreign Investment Review Board National Interest  
Test**

**Written Question on Notice – Australian Taxation Office**

At the Senate Rural and Regional Affairs and Transport Committee Public Hearing on Friday 10 August 2012, the Committee heard evidence from Mr David Farley CEO, AAcO regarding the tax benefits that foreign investors receive in Australia in comparison to Australian enterprises in the agricultural industry. The Chair of the Committee, Senator the Hon Bill Heffernan, would like the Australian Taxation Office provide a comprehensive written response to this evidence prior to the Committee's public hearing on **Thursday, 16 August 2012**.

**Key parts of the evidence are as follows:**

**Mr Farley** - Australian agriculture is ... not attractive markets to invest in our own land. We have heard ... why we are attractive to foreign capital, because of the taxation advantages both on capital and working capital conditions... Yet we export our capital because the taxation is more attractive offshore than onshore.

... the Australian investor has not got the opportunity to enjoy the taxation breaks that the foreign investor has.

...

**CHAIR:** ... Mr Farley, we have got advice from the tax office that says there are all sorts of concessions to the new player on the block, which are sovereign investors, and if they in fact produce here and do not participate in the market and deal direct for humanitarian purpose there is no tax for them on the way out. They get a tax concession on the way in and if they finance an arm here it is passive investment and that is not taxable as well. How ... does anyone that is in the market to get a return on investment, wanting to participate in the commodity market and not distort the land market, compete?

**Mr Farley:** They don't, that is the reality of it. That is why the Australian investor, if our investment funds, the multi-trillions of dollars we capture and put together to work globally, if we could offer our funds those attractive breaks I am sure they would supply the capital to develop the north of Australia. We have got plenty of capital; it is an issue of the pathway to it. At the moment we are making it attractive for foreign capital to participate and harvest good reward from and take out of the country without it being to the benefit of the country.

...

**Senator BACK:** ...Can you give us a very quick profile—are your foreign investors or shareholders, in the main, institutional?

**Mr Farley:** My largest shareholder is a company called IFFCO Poultry, which is shared between the interest of a Dubai investment and a Malaysian investment—which is a large agricultural organisation, now state owned, called Felda that has just gone public. My next largest investor is an enormously successful entrepreneur based in the Cayman Islands. Then there is a list of shareholders who are principally US and UK investors who are there for the long-term thematic that agriculture is going through at the moment...

**Senator BACK:** ... It almost is the case that Australian shareholders would be wise to invest their funds offshore through one of your foreign investors and invest back in AAcO through that foreign instrumentality to enjoy the taxation benefits—perversely, that is the case.

**Mr Farley:** Unfortunately, you are correct, and it does seem perverse in the world we live in today. The unfortunate part for agribusiness enlisted investors in Australia is that, if we could share with our institutional funds and our self-regulated funds for our retirees the same taxation benefits that are available to our offshore shareholders, I am sure my share price and that of the other listed agricultural entities would not be trading at a 50 per cent discount to NTA today.

**Answer:**

The ATO writes in response to a question from Senator Heffernan, seeking a response to the evidence provided by Mr David Farley to the Committee on 10 August 2012.

This is a matter of policy and should be directed to the Treasury. Representatives from the Treasury will be available at the hearing to answer policy questions.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
REFERENCES COMMITTEE**

**Inquiry into the Foreign Investment Review Board National Interest Test**

**Public Hearing Friday, 10 August 2012**

**Questions on Notice – Australian Bureau of Statistics**

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**Written questions (Senator Nash)**

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1. Can the ABS provide a detailed explanation of how it determined the estimated value of agricultural operations for its Agricultural Land and Water Ownership Survey, with particular reference to the \$5000 figure? Can it also provide examples of the types of agricultural businesses that would fall into the various ranges used by the ABS in its survey?
2. Can the ABS clarify whether or not it included leasehold land in its Agricultural Land and Water Ownership Survey?



**Agricultural Land and Water Ownership Survey:  
Response to the Rural Affairs and Transport Senate Committee questions taken on notice**

**10 August 2012 (Senator Nash)**

**Purpose of this paper**

This paper provides responses to the questions taken on notice from the Rural Affairs and Transport Senate Committee hearing, held 10 August 2012, during evidence provided to the committee's investigation into the national interest test, and particularly to the level of foreign ownership in agricultural businesses, land and water entitlements determined through the 2010 Agricultural Land and Water Ownership Survey (the ALWOS).

**Can the ABS provide a detailed explanation of how it determined the estimated value of agricultural operations for its Agricultural Land and Water Ownership Survey, with particular reference to the \$5000 figure? Can it also provide examples of the types of agricultural businesses that would fall into the various ranges used by the ABS in its survey?**

The Estimated Value of Agricultural Operations (EVAO) is a sizing variable used by the ABS when conducting surveys of agricultural businesses. This allows us to group businesses which have similar levels of agricultural production.

Information from survey returns is used to calculate EVAO. This information includes the level of production, the area being farmed and a three year rolling average of prices for the commodities produced by the business. Where a business has not been previously surveyed, the ABS approximates EVAO using total sales data from ATO Business Activity Statement information. In order to do this, the ABS has undertaken analysis of the relationship between ABS calculated EVAO and ATO BAS Total Sales for businesses which have responded to ABS surveys and submitted BAS returns for the same period. The analysis allowed the ABS to determine the relationship between the two figures and use that relationship to 'standardise' the BAS Total Sales figure for use as a sizing variable in ABS agricultural activity surveys.

The EVAO variable is used to even out fluctuations in production value for agricultural businesses. For example, it reduces the impact of extreme or unusual climatic conditions so that a drought induced crop failure does not result in a 'big' business being grouped with much smaller businesses when considering sample selection and processing activities.

Businesses are included for possible selection in all ABS agricultural surveys if they have an Estimated Value of Agricultural Operations (EVAO) greater than \$5,000 to ensure good coverage of the total agricultural activity undertaken in Australia.

This minimum EVAO cut-off has been used for all agricultural collections since 1994. This minimum cut-off was selected in determining the list of businesses for ALWOS to ensure comparability with other ABS agricultural collections, for example, the Agricultural Census.

The following tables show that micro (EVAO between \$5,000 and \$125,000) and small agricultural operations (EVAO between \$125,000 and \$500,000) represent a significant portion (89%) of all businesses with agricultural activity in Australia. Table 1 shows the types of business entities which make up 99% of the number of all businesses in each size grouping. Table 2 shows the top five types of

agriculture in each group, noting that 'non-agricultural' refers to those businesses where agriculture is not their main or primary activity (such as a mining company which also undertakes some agricultural activity).

Table 1

Size of business	Type of business entity	Percent of size group
MICRO (=61% of all businesses)	Family partnership	47
	Individual or sole proprietor	31
	Other trust	9
	Private company	8
	Other partnership	5
SMALL (=28% of all businesses)	Family partnership	54
	Other trust	17
	Individual or sole proprietor	14
	Private company	9
	Other partnership	5
MEDIUM (=11% of all businesses)	Family partnership	42
	Other trust	30
	Private company	15
	Other partnership	6
	Individual or sole proprietor	6
	Public company	1
LARGE (=0.3% of all businesses)	Private company	41
	Other trust	28
	Family partnership	14
	Public company	7
	Other partnership	6
	Individual or sole proprietor	2
	Other incorporated entity	1
<b>Note 1:</b> <i>Other trust</i> does not include approved deposit funds, APRA regulated super funds, corporate unit trusts, deceased trusts, non-regulated super funds, pooled development funds, pooled super trusts, public trading trusts, regulated self managed super funds, or superannuation funds		
<b>Note 2:</b> <i>Other partnership</i> does not include limited partnerships		
<b>Note 3:</b> Size of business is determined by estimated value of agricultural operations (EVAO). Micro businesses have EVAO between \$5,000 and \$125,000, Small businesses have EVAO between \$125,000 and \$500,000, Medium businesses have EVAO between \$500,000 and \$5,000,000 and Large businesses have EVAO above \$5,000,000.		

Table 2

Size of business	Main activity of business	percent of size group
MICRO (=61% of all businesses)	Beef cattle farming	34
	Non-agricultural	21
	Sheep farming	8
	Grain-Sheep or Grain-Beef cattle farming	6
	Sheep-Beef cattle farming	5
SMALL (=28% of all businesses)	Grain-sheep or Grain beef cattle farming	17
	Beef cattle farming	16
	Dairy cattle farming	13
	Other grain growing	11
	Sheep farming	8
MEDIUM (=11% of all businesses)	Other grain growing	23
	Grain-Sheep or Grain-Beef cattle farming	14
	Beef cattle farming	13
	Dairy cattle farming	10
	Non-agricultural	6
LARGE (=0.3% of all businesses)	Beef cattle farming	16
	Vegetable growing (outdoors)	14
	Other fruit and Tree nut growing	14
	Non-agricultural	10
	Poultry farming meat	8
<b>Note 1:</b> <i>Non-agricultural</i> businesses may have agricultural production but it is not their main activity		
<b>Note 2:</b> <i>Other grain growing</i> includes businesses mainly engaged in growing cereal or coarse grain (except rice)		
<b>Note 3:</b> <i>Other fruit and tree nut growing</i> includes businesses mainly engaged in growing tree nuts, tropical fruits or sub-tropical fruits		
<b>Note 4:</b> Size of business is determined by estimated value of agricultural operations (EVAO). Micro businesses have EVAO between \$5,000 and \$125,000, Small businesses have EVAO between \$125,000 and \$500,000, Medium businesses have EVAO between \$500,000 and \$5,000,000 and Large businesses have EVAO above \$5,000,000.		

**Can the ABS clarify whether or not it included leasehold land in its Agricultural Land and Water Ownership Survey?**

Yes, leasehold land was in scope of the ALWOS. Businesses were asked to report on land that they owned, leased or operated as at 31 December 2010.