

Ballycastle Pastoral Company  
"Ballycastle"  
2063 Range Road  
Mummell NSW 2580

Email: ballycastle@mac.com

November 11 2009

The Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Sir/Madam

**Inquiry into: the Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009**

I wish to make the following submission as my family, our local business community, and the primary production capacity of our country will be profoundly impacted by the proposed amendments to the existing non-commercial business losses (NCL) legislation (Schedule 2 – the quarantining of non commercial business activities).

**Background**

My family own and operate a 400 acre beef cattle property on the NSW Southern Tablelands, between Goulburn and Crookwell. This property is the family home for myself, my wife, our 9 year old son, and my father. We also lease an adjoining 200 acre property to support our expanding commercial beef herd.

I have lived in the district for 35 years, having grown up on a large local property that was managed by my father. Over the years both my wife and I have commuted to Sydney and Canberra and built successful careers in the Information Technology Industry. We bought our property and began operating our farming business 6 years ago. As my salary exceeds the arbitrary \$250,000 threshold being set under the proposed legislation, we will be seriously affected if this legislation is passed. I will discuss these impacts in detail below, and provide alternative suggestions.

## **Primary production is as important to the country as providing a base of rental accommodation.**

Small farms like ours, supported by off farm income, play an invaluable role in Australia's primary production and regional communities. Australians need the food that is produced and our regional towns need the money that is invested locally and the employment that is created. In the same way that negative gearing encourages private investment in Australia's housing stock, being able to off-set losses from farming encourages private investment in Australia's agricultural sector.

I would be hard pressed to name a single farmer in our established farming district who does not have off-farm income to supplement their farming income. A farm is a small business, and all successful businesses have diversity in their income streams and investments.

Our farm is our primary place of residence, we are not "absentee farmers", and it is not a "hobby farm". The fact is I travel nearly 3 hours a day to earn my off-farm income. Every year, since its inception, we have met the requirements of the current thresholds used to test for a legitimate farming enterprise.

Why should it matter if I earn \$249,000 or \$250,000? I could earn any level of income and still be allowed to claim a negative gearing deduction for property investment, why is this?

The income test discriminates against a family where (as in our situation), the off-farm income is earned by only one person. A husband and wife could earn up to \$249,000 each (a total \$498,000) in off-farm income and be allowed to offset commercial losses against one or both their PAYE salaries, but a family with a single off-farm salary earning \$250,000 cannot claim anything.

If the intent of this legislation is to withdraw government support for marginal businesses then I submit that the current 4 threshold tests should be reviewed, and that an arbitrary income test should not be imposed. An example may be to increase the turnover provisions which are currently set at quite a modest \$20,000.

## **Inequity in the treatment of Negative Gearing**

I also question how farm investment differs from a residential negatively geared investment which is not income tested, and is designed to allow an individual to claim exactly the same style of loss ?

As the National Farmers Federation submission very eloquently describes "...The NFF cannot see any justification in creating a distinction in the treatment of an investment in a small farm to the treatment of an investor in metropolitan housing who can access taxation benefits through negative gearing".

Importantly the NFF also describe a major knock-on effect that I am confident will manifest itself quickly in the Sydney-Canberra corridor resulting in a major loss of property values as farms are disposed off for more tax-effective investments – "... the NFF believes that the proposed changes to the non commercial losses rules for individuals would break this link with existing negative gearing rules, leading to a redistribution of investor income away from regional areas and towards the metropolitan housing market".

We believe this new legislation, if passed, will see our personal situation swept up in a raft of local property sales that will drive down values, and effectively wipe out the value of our family asset – that we have worked very, very hard to build. I am sure this was NOT the result the Government was envisaging when they were modeling this amendment.

In addition, if these changes are introduced, the number of new farmers entering the industry will be drastically reduced as the startup and investment costs for a legitimate farming enterprise are considerable. The last thing any Government should be doing is stifling its primary industries.

### **Loss of investment in rural communities**

We are not unique in the fact that our farming business spends a considerable amount of money each year in our local community, through farm contractors and local businesses delivering products and services that include:

- Weed control
- Pasture management
- Cropping
- Conservation and land management projects
- Fertiliser spreading
- Fencing
- Veterinary services
- Fodder and Farm produce
- Farm building supplies
- Accounting and Legal services
- Car and farm machinery dealers

In all likelihood many working/farming families like ours will be forced to re-evaluate our businesses and take this expenditure out of the local community. This is a significant issue as farmers with off-farm income use a higher proportion of contractors as we do not have time to do all the work ourselves. So, in an attempt to target so called "High Wealth Individuals", all the local families that work in the businesses we use will loose customers and income.

## **Summary**

I submit that this proposed introduction of an arbitrary income test is discriminating against legitimate farming enterprises, who are providing the vital primary production needed to feed our country. Offsetting commercial losses is simply a negative gearing vehicle that allows for the investment in the creation of primary production enterprises, and why should this be treated differently than negative gearing for the creation of a residential housing base for our country.

The wider impact to the communities and business that rely on the income from these farms has not been considered.

The impact on property values, and the potential for a nett write down in the value of entire communities has also not been considered.

This is simply bad legislation ! If the intent of this change is to remove government support of unprofitable businesses, then commerciality tests should be updated and adjusted, and, if you meet these thresholds tax relief should be available to you, regardless of any other income.

Also, this is a major change to taxation legislation with dramatic knock-on effects relating to the construct of family businesses. The Government cannot make such a fundamental change without giving those affected sufficient time to adjust to the changes. They intend for this legislation to take effect for the current 09/10 financial year – yet the law is not in place and there has been 6 months of uncertainty surrounding these changes. It is not reasonable to expect working Australians to shoulder these changes with no notice.

I appeal to you not to pass this legislation to introduce arbitrary income tests. If it really is necessary to reduce support to this vital sector then I encourage you to consider adjusting the threshold tests to determine legitimate farming enterprises. The long term impact on the country must be considered.

Yours faithfully

Shaun Watson  
**Ballycastle Pastoral Company**