

16 August 2012

**General Manager
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600**

Via email: SRWUIP@treasury.gov.au

Dear Sir/Madam

Exposure draft - Tax treatment of Water Infrastructure Improvement Payments

We have been requested to provide comment in regards to the above mentioned exposure draft by a client who is a recipient of payments under a water infrastructure improvement program. Their particular program has been running for some time and there are transactions for which we need to account for the 11/12 taxation year. So this draft legislation is very helpful in providing more details around the media announcements previously made.

Generally speaking it appears to us that the essence of the announcements is captured in the documents.

However, we do have one concern, which we outline below.

Our initial interpretation of the draft legislation is that deductions will be denied for the **full** amount of payments received under this scheme. Our concern is that this will result in more tax payable that may arise under current legislation.

For example let's assume a \$1 million scheme payment, and for simplicity this is split as \$300,000 for acquisition of water entitlements and \$700,000 for funding for infrastructure improvements for the purposes of conveying water more efficiently.

If we assume that the participant has a \$150,000 cost base for their water licences and ultimately spends the full \$1 million on irrigation works.

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Under this scenario we read the legislation to mean that a \$150,000 gross capital gain will be disregarded and the \$700,000 will be non-assessable non-exempt income eliminating \$850,000 from taxable income. However \$1 million of deductions will be prevented from being claimed.

In effect this will mean the benefit of the existing cost base of water entitlements will be lost.

If our interpretation is correct would it be possible to ensure the legislation is re drafted to the effect deductions under proposed s26-100 are only reduced by an amount equal to the specific infrastructure payment amount plus an amount equal to the gross capital gains disregarded, rather than an amount equal to the total payments received under the scheme?

Please don't hesitate to give me a call if you would like to discuss.

Yours sincerely



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