

## M C Mars QS

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**To:** housingtaxdeductions@Treasury.gov.au  
**Subject:** Housing Tax Integrity – Disallowing Travel Deductions and Limiting Depreciation Deductions - Exposure Draft

I refer to the “Housing Tax Integrity” exposure draft legislation and wish to make a submission as follows:

I am a Chartered Quantity Surveyor and Registered Tax Agent with over 30 years professional experience and have specialised in the preparation of Tax Depreciation Schedules for Australian property investors for the last 17 years.

I have run my own business in Tasmania for the past 11 years and have extensive experience in all aspects of Australian property allowances taxation.

I have invested a significant amount of time, effort and equity into establishing and running my business and pay significant ongoing fees and costs including mandatory professional membership, professional indemnity insurance and continuing professional development requirements.

I have also had to obtain further qualifications as a Registered Tax Agent under the requirements of the Tax Agent Services Act 2009 and meet ongoing compliance requirements as a condition of carrying out my business.

I have been blindsided by these proposals which represent a reversal of Government policy and long-standing legislation on the apparent basis of political expediency.

I consider that the draft legislation is illogical, unfair and a politically motivated attack on residential property investors who will be subject to discriminatory rules unlike trusts, institutions and businesses which will continue to be able to claim deductions denied to residential property investors.

The legislation is retrospective and has left businesses like mine in the lurch as I have been unable to prepare any tax depreciation schedules for existing residential properties since the changes were announced without prior warning or consultation on Budget evening 9 May 2017 to take immediate effect.

I am extremely perturbed that the legislation has been branded as an integrity measure when my profession is independent, insured for professional indemnity, regulated to the highest possible ethical standards and applies the laws and legislation to the letter of the law, all at significant ongoing time and expense.

I have also personally had to demonstrate compliance with professional and ethical standards including mandatory continuous professional development and the further need to gain accreditation as a Registered Tax Agent under the jurisdiction of the Tax Practitioners Board.

My own livelihood has already been adversely impacted by the proposals and my business will not be viable if the legislation is passed as approximately 90% of my income is derived from the preparation of Tax Depreciation Schedules for investors purchasing existing residential properties.

It appears that no account has been made of the fact that residential property investors, unlike homeowners, pay substantial amounts of Capital Gains Tax if they profit from the sale of their property and will be enforced to pay for the loss of tax deductions by raising rents. There is also the real possibility that the value of residential investment properties will be reduced resulting in forced and loss-making sales with consequent negative impacts on the budget bottom line.

The legislation is also at odds with the Government’s election commitment and long-held promise to back small business and protect negative gearing:

## PROTECTING NEGATIVE GEARING

*We will not remove or limit negative gearing – that would increase the tax burden on Australians who are just trying to invest and provide a future for their families. Negative gearing is used by over 1 million Australians, two thirds of whom have taxable incomes below \$80,000.*

<https://www.liberal.org.au/our-plan/helping-families-get-ahead>

The legislation will also result in perverse outcomes and unintended consequences due to issues such as:

- Common lifts in new apartment building – can these be claimed if previously used by the builder?
- The same common items will be able to be claimed by the first owners but not consequent owners?
- How will and why should depreciating assets be valued if not listed in the contract of sale?
- Can non-eligible depreciating assets be claimed as capital works deductions?
- Almost new items will not be claimable by consequent owners and will have no value.
- Potential distortion/volatility in the housing market once investors become fully aware of the implications.
- Economic and social losses resulting from loss of livelihood.

I therefore consider that the draft legislation should be scrapped and enhanced requirements imposed for the fair valuation of second-hand assets to prevent the potential manipulation of values in sales contracts. This would require all such assets to be independently valued by a quantity surveyor or other appropriately qualified professional, on the basis of apportionment of the purchase price of the property in accordance with well-established principles which have been applied in strict accordance with ATO rulings and regulations for decades.

Failing that, I would submit that the loss of my livelihood and demise of my business demands the early implementation of a significant financial compensation package.

Finally, I also consider that disallowing legitimate travel deductions to all residential property investors due to misapplication of the rules by some investors is equally illogical and unfair.

Finally, I would point out that despite having a direct interest in this matter and making submissions to the relevant Ministers and their departments upon the Budget announcement I have received no communication about this exposure draft and only became aware of its existence by virtue of reading about it in the press.

Given the profound negative effect that this proposed legislation is having on my livelihood I would request that I am kept aware of all future developments in regard to this matter.

I have also attached a PDF version of this submission for reference.

Regards

Malcolm Mars MRICS

Dated: 4 August 2017

**M C Mars**

**Chartered Quantity Surveyor  
Registered Tax Agent  
24 Bareena Road  
TAROONA TAS 7053**

**Tel (03) 6227 8820  
Mob 0437 636 054**

Email [mcmarsqs@bigpond.com](mailto:mcmarsqs@bigpond.com)

Website [www.mcmarsqs.com.au](http://www.mcmarsqs.com.au)

 Follow @mcmarsqs

Specialising in Tax Depreciation for Property Investors

