9th June 2015

Tax White Paper Task Force.
The Treasury
Langton Cres
Parkes ACT 2600

To Whom It May Concern

Dear Sir / Madam

The Pastoralists and Graziers Association of WA (Inc) (PGA) is aware that the Treasurer is seeking submissions on the Commonwealth Government's tax discussion paper. Although the PGA is not expert in Australian Taxation law, it appreciates the opportunity to provide its views and comment to the task force.

The PGA is a non-profit industry organisation established in 1907, which represents primary producers in both the pastoral and agricultural regions in Western Australia.
As a state farming organization, the PGA supports its membership in the operation of profitable farm businesses.

The PGA notes that according to Section 6 of the discussion paper, Agriculture, Forestry and Fishing is the fourth largest industry grouping of small businesses.

Tax treatment by the Australian Taxation Office (ATO) is one of the main deciding factors on the type of business structure chosen by Primary Producers (PP).

Many primary producers choose to operate in a partnership or discretionary trust in preference to proprietary limited (PTY LTD) companies. If the primary producer chooses the PTY LTD company structure as their main business structure, they are denied the opportunity to use primary producer tax options such as Farm Management Deposits (FMDs) and tax averaging for primary producers.

Consequently, many primary producers operate multiple business structures to ensure they can access these tax opportunities.

In addition to the broader regulatory environment that small businesses must navigate, tax law increases the compliance demands on primary producers and creates other issues such as Division 7A, in respect to loans to discretionary trusts and unit trusts in the overall farm family group.

Pastoralists & Graziers Association of Western Australia (Inc)
Ground Floor, 28-42 Ventnor Avenue, West Perth WA 6005 PO Box 889, West Perth WA 6872
Ph: (08) 9212 6900 Fax: (08) 9485 0299 Email: pga@pgaofwa.org.au

This complexity also creates difficulties in succession planning for small farm businesses because transfers of business assets to the next generation are impeded by Capital Gains Tax and Stamp Duty issues.

The PGA draws the task force's attention to the implications of the following tax treatments specific to small farm businesses;

Farm Management Deposits

1. To widen the use of FMDs to actual entities such as Trusts rather than individuals. If the Trading Trust could deposit into the FMD rather than the individual, it would be better utilised by the primary production business.
   For example, Farmer A had $300,000 on FMD deposit; there is a loss in the Trading Trust in that year and Farmer A dies – the FMD is taxed in his tax return at Date of Death and the Trading Trust is unable to offset the loss with the FMD from Farmer A.

2. The need to increase the total amount of FMDs needs to be considered. The cap was raised a number of years ago but has not been revisited since then.
   Currently FMDs are capped at $400,000 per individual. If this could be raised or at least increased in line with CPI there would be benefit. The underlying reason for this is the increasing volatility of farm income, with revenue peaks and troughs becoming higher and lower respectively.

   If an FMD is withdrawn and brought back into cash flow due to drought or adverse business circumstances, it is unintentionally caught in the high-income non-commercial losses rule brought in 2009.
   If more than $250,000 is withdrawn in the one year, it is currently not identified as primary producer or non-primary producer income and the ATO currently regards the taxpayer as a high-income earner and the non-commercial losses rules begins to take effect.

   For example, Farmer A has a drought and a tax loss of $350,000.
   If Farmer A withdraws $330,000 to offset the loss they are unable to utilise the loss and suffers the tax situation of $330,000 assessable income in their name and carries forward a loss which cannot be utilised in that year.

Small Business definition of $2 million turnover

This turnover test is deficient in addressing the needs of small business.
It does not reflect the increase in gross turnover of small businesses over the passage of time.

The gross turnover in most modern small farm businesses is increasing, as are the running costs, so although net taxable income may not be large the small business is precluded from accessing small business concessions because that turnover now exceeds $2 million.

The Small Business Concessions on Capital Gains Tax

> Section 152 of the *Income Tax Assessment Act 1997* allows small farm businesses to access further options when dealing with Capital Gains Tax on either selling or transferring their business or farming land to the next generation.

Unfortunately, capping turnover at $2 million and the maximum net asset value test of $6 million yet again precludes many small farm businesses from accessing concessions.

The task force should consider raising the two thresholds to $5 million turnover and $10 million net assets or at least the two thresholds should be increased in line with CPI.

Yours faithfully

Mr Ian Randles

Policy Officer - Grains, Livestock & Climate Chang

The PGA wishes to acknowledge the assistance of PGA Executive Committee member Ms Judy Snell whose considered opinion informed this submission.