TAX AVERAGING FOR PRIMARY PRODUCERS

by **Carlos Gouveia, Harriette Watson**
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IN BRIEF - PRIMARY PRODUCERS WHO OPT OUT OF INCOME TAX AVERAGING WILL BE ABLE TO RE-ENTER THE SYSTEM AFTER 10 YEARS

Recent changes to the *Income Tax Assessment Act* 1997 allow individuals who are primary producers to access income tax averaging 10 income years after choosing to opt out, instead of that choice being permanent. These changes will apply for the 2016-2017 income year onwards, and primary producers who choose to opt back in must first satisfy the conditions for income tax averaging.

AMENDMENTS RECOGNISE UNPREDICTABLE NATURE OF PRIMARY INDUSTRIES

The *Tax and Superannuation Laws Amendment (2016 Measures No. 2) Bill 2016* was passed in the Senate on 9 February, in response to the Federal Government's *Agricultural Competitiveness White Paper* released in July 2015.

Income tax averaging is available to individuals who:

- have carried on a primary production business for two years or more, and
- for at least one of those years, have basic taxable income (broadly taxable income excluding net capital gains and certain superannuation lump sum amounts and death benefit termination payments) which is not more than basic taxable income for the next year

The object of income tax averaging is to ensure that the tax system does not treat those individuals with highly volatile income unfairly relative to other tax payers with more stable incomes. Tax averaging smooths the income tax liability of primary producers over a maximum of five years. This means income tax paid by primary producers better reflects that paid by someone who receives an equivalent, but more stable, income over that period.

Where a primary producer's average income is less than their basic taxable income, they will receive an averaging tax offset. Where a primary producer's average income is more than their basic taxable income, they must pay extra income tax.

The past decades of periodical droughts and irregular rainfall have meant that a primary producer's taxable income often fell below the average income. In this situation farmers could either pay extra income tax, or opt out of the tax averaging system and pay tax at ordinary rates each year. Once a primary producer opted out, the decision could not be revoked.

PRIMARY PRODUCERS MUST SATISFY INCOME TAX AVERAGING CONDITIONS TO OPT BACK IN

Under the new laws, a primary producer may opt back into the tax averaging system 10 years after opting out. Primary producers must have opted out from averaging in the 2006-07 income year or earlier in order for the benefit of the averaging to apply in the 2017-2018 income year. The delay period ensures that the flexibility is not used for improper purposes. After the 10 year opt out period has ended, primary producers are effectively treated as new primary producers and must satisfy the conditions for income tax averaging set out above before they can opt back in.

The measures do not operate retrospectively as income derived in the opt out period is not taken into account for the purposes of income tax averaging.

The amendments will apply for the 2016-2017 income year onwards. The first possible averaging year will be the 2016-2017 income year, and the benefit of the tax offset will be available from the 2017-2018 income year at the earliest.

These recent changes recognise the unpredictable nature of the primary industries and will help to ensure that agribusiness remains a key contributor to the economic development of Australia.