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Letter to the Editor
'The Land'

New tax law undermines city-rural trend

Sir, Your Special Feature "Farmers from the Big Smoke" (*The Land*, 27 December 2001) reported accurately on a real and welcome phenomenon - particularly the social commitment most of the 'city migrants' are making to their new-found rural communities, and the benefits flowing to regional Australia from the combination of on-farm and off-farm incomes being spent on genuine primary production, farm improvement, landcare measures and community development.

Curiously, however, you made only one reference (page 11) to the invidious change in tax law that will stealthily negate this trend.

As yet another of the contemptible anti-small business cock-ups from the Ralph Review of business taxation, the 'non-commercial loss' legislation slipped in under the radar, because most accountants were overwhelmed at the time helping their clients cope with the other more public tax reforms. And there was no real debate, because the ALP, hell-bent on not being upstaged again by the Democrats as it had been on the GST, helped the passage of the legislation, which came into force on 1 July 2000. Only Peter Andren, Independent Member for Calare, seriously campaigned against the Bill.

The sad truth is that the 'non-commercial loss' provisions of the *New Business Tax System (Integrity Measures) Act 2000* got it badly wrong.

Yes, the new law will, as intended, prevent wealthy absentee hobby farmers claiming five hectares and a couple of geldings as a loss-making breeding enterprise. But because the Treasury's four arbitrary tests of 'commerciality' were ill-conceived without proper consultation, the law fails to prevent continued claiming of losses by those who can afford adequate high-priced land within 100 kilometres of a capital city served by a freeway.

Worse still, the law seriously threatens many genuine 80-100 hectare primary production enterprises as well as the businesses and rural communities that rely on them. Further, the Tax Office's new Tax Ruling TR 2001/14, issued on 19 December 2001, has now interpreted the so-called 'start-up provisions' so narrowly that small-scale livestock enterprises using off-farm income to restore run-down tablelands grazing properties to better-than-historical commercial production will be forced to carry tax losses for several years.

The trend around regional centres is towards more subdivision and more small farms. The small farms are bought and operated by families with off-farm incomes that are usually greater than the \$40,000 primary producer exception. If these farms are disenfranchised, they risk being further subdivided into lifestyle blocks with serious consequences for environmental flows and water management.

Genuine small-scale farmers are NOT 'hobby farmers'. Genuine small-scale farmers usually reside on their farms, and expand otherwise declining rural populations. They participate in rural community life (school, church, fire brigade, landcare group, sporting teams, clubs and societies, civic duties, new small businesses, etc). They are committed and innovative in their farming and land management, and are big spenders on landcare measures. Particularly, they create a MAJOR financial multiplier in local economies (rural suppliers/stock and station agents, earthmoving contractors, livestock and agricultural contractors, seed merchants, tree nurseries, veterinarians, local stud breeders, farm vehicle agents, etc).

All these contributions are threatened by the non-commercial loss provisions, and few rural communities appear to have realised it.

To summarise some ever more widely held views about the new tax law - it is unfair, inequitable, inefficient and complex. One critic asserts the law is unconstitutional, in that it creates discrimination between States and parts of States.

But there is little chance of it being repaired until the National Farmers' Federation mounts a serious public campaign. This, in turn, requires that NSW Farmers and their other State counterparts recognise small farms supported by off-farm income as part of rural Australia's salvation and take concerted action to represent their interests.

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