

DRAFT LEGISLATION TO PROTECT FORESTRY MANAGED INVESTMENT SCHEME INVESTORS

The Assistant Treasurer, Senator Nick Sherry, has today released for public consultation draft legislation to change a key tax rule for forestry managed investment schemes (MIS) that will protect investors in recently collapsed schemes.

"With this measure, the Rudd Government is protecting around 19,000 investors in collapsed forestry managed investment schemes from an unintended adverse tax outcome," the Assistant Treasurer said.

"The draft legislation amends the law relating to the four-year holding period rule - to ensure it cannot be failed for reasons genuinely outside an investor's control."

"The holding period rule is an important integrity measure, as it requires investors to hold their interest in a scheme for four years as a condition of an up-front tax deduction."

"But the rule also applies in circumstances over which the initial investor may have no control."

"The Rudd Government considers that denying the deduction in these circumstances unduly penalises investors," the Assistant Treasurer said.

The draft legislation amends the four-year rule to allow an investor's deduction to stand if:

- a capital gains tax (CGT) event happens because of circumstances outside the initial investor's control; and
- the initial investor could not have reasonably foreseen this CGT event happening, at the time they acquired the forestry interest.

The rule applies to CGT events from 1 July 2007 and the amendments in the draft legislation would take effect from this date.

The draft legislation also amends the promoter penalty provisions to ensure the law continues to deter forestry MIS covered by product rulings from being implemented in a way that is materially different from that described in the product ruling.

"The draft legislation fulfils a commitment made by the Rudd Government on 21 October this year," the Assistant Treasurer said.

The draft legislation is available at www.treasury.gov.au and consultation closes on Friday 15 January 2010. This will allow the introduction of the legislation early in 2010.

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