



australian network of environmental defender's offices

Addendum to ANEDO's submission on the May 2009 review of Australia's Future Tax System

The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

Contact Us

EDO ACT (tel. 02 6247 9420)

edoact@edo.org.au

EDO NSW (tel. 02 9262 6989)

edonsw@edo.org.au

EDO NQ (tel. 07 4031 4766)

edonq@edo.org.au

EDO NT (tel. 08 8982 1182)

edont@edo.org.au

EDO QLD (tel. 07 3211 4466)

edoqld@edo.org.au

EDO SA (tel. 08 8410 3833)

edosa@edo.org.au

EDO TAS (tel. 03 6223 2770)

edotas@edo.org.au

EDOVIC (tel. 03 9328 4811)

edovic@edo.org.au

EDO WA (tel. 08 9221 3030)

edowa@edo.org.au

The Australian Network of Environmental Defender's Offices Inc (ANEDO) is a network of 9 community legal centres in each state and territory, specialising in public interest environmental law and policy. ANEDO recently took the opportunity to provide comment on *Australia's Future Tax System* through lodging a submission to the inquiry. As a result of a recent EDO project concerning private conservation we have identified further tax-transfer impacts on the environment relating to the capital gains tax treatment of conservation covenants that we would like to include as an addendum to our submission. We ask that the review panel accept and consider this additional submission.

Private conservation covenants and capital gains tax treatment

With such extensive environmental pressures facing biodiversity, ANEDO submits that the Australian Government should be implementing incentives to encourage the conservation of natural systems. However, a conservation covenant is treated as a capital gains tax event under the current capital gains tax legislation. Capital gains tax is a strong disincentive in this circumstance and makes it financially prohibitive for many landholders to enter into a conservation covenant. This complements other taxation disincentives associated with private conservation discussed in the body of our original submission.¹

A conservation covenant is a legal covenant agreed to by landholders to protect land of high conservational value that has been set aside for conservational purposes. Once entered into, the covenants are registered on the title of the land. This notation binds the landholder and subsequent landholders to maintain the conservation value of the subject land. There is no change in ownership of the land and the landholder receives no financial benefit from entering into a conservation covenant. As stated above, under the current capital gains tax system, entering into a conservation covenant is considered a capital gains tax event.² Therefore the taxation treatment of entering into a conservation covenant is considered the same as if the land holder had disposed of the land by sale. The disincentive to enter into a conservation covenant resulting from capital gains tax treatment is compounded by the other financial disincentives of the current taxation system discussed in the main body of our original submission.

For more information please contact Richard Howarth:

richard.howarth@edo.org.au or (02) 9262 6989

¹ See Part B of ANEDO's Future Tax System submission - Tax-transfer impacts on the environment: *Loss of Biodiversity*. Available at: <http://www.edo.org.au/edonsw/site/policy.php#subs>.

² 'What is a capital gains tax event' – Australian Taxation Office fact sheet. Available at: <http://www.ato.gov.au/individuals/content.asp?doc=/content/36546.htm>.