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G'day Ken

SUBMISSION ON TAXES

Rates levied under the auspices of the State Council of Rural Lands Protection Boards

The major challenges facing Australia through the tax transfer system are:

- Fairness,
- Equity,
- Risk of discrimination across taxpaying categories,
- States levying their own taxes thereby imposing double taxing

Australia has far too many Federal, State and Local Government taxes and most are difficult to understand and comply with. This makes it easy for cunning individuals to capitalise on what they perceive to be weaknesses in tax law to circumvent or avoid their obligations, thus transferring the load on to honest taxpayers, some of whom because of tax complexities, inadvertently break the law.

Despite the assertions made by the States when the GST was introduced, many States have not honoured their promises to abolish certain State taxes. Consequently we are sometimes doubly taxed.

Examples of double taxation:

- 1 Federal GST and State stamp duty on property sales.
- 2 Certain Federal excise taxes are subject to GST even though we are not supposed to have a tax on a tax, e.g. motor spirit.
- 3 Local Government rates and Rural Lands Protection Boards (RLPB) taxes being levied on the same piece of land. RLPB taxes operate exclusively in NSW. The rest of the States fund their rural lands protection activities from State consolidated revenue. (See below)
- 4 RLPB taxes (again exclusively NSW) being levied on notional stock carrying capacity and State stamp duty levied on sale of livestock.

May I draw your attention to one NSW tax which, in my view, is extortion by another name?

The New South Wales (NSW) Government has imposed a discriminatory tax on a defined group of its population. The applicable definition of the group in general terms is: *those living outside urban limits on land of a specified hectarage area and who do not conduct certain activities (eg. golf courses, funeral parlours, industrial activities etc.) on that land.*

In more precise terms, the definition turns out to be:

- “owners or tenants of hectarage greater than a number depending on the RLPB area in which the owner/tenant lives.” (See later on page .)

The tax equation is applied to this group as follows:

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“hectareage greater than a number depending on the RLPB area in which the owner/tenant lives.....

- multiplied by an amount which varies by reason of the owner’s/tenant’s overall hectareage area (*and note that where owners/tenants operate on more than one parcel the parcels can be added together for the purpose of calculating the rates*)
- and the base rate, which depends on the RLPB area in which the owner/tenant lives,
- plus other amounts for animal health care levies based on a notional carrying capacity
- plus inexplicable bits and pieces of other levies,

all expressed in dollars.

The tax is called:

Rural Lands Protection Board Rates.

The State Government claims it has the power to levy this tax under the NSW Rural Lands Protection Act 1988, Section 63, Regulation 7 as administered by the NSW Department of Primary Industry. The Minister responsible is the Minister for Primary Industry, Ian MacDonald. The Boards operate under an over-arching body called The State Council of Rural Lands Protection Boards (The State Council) which operates from offices of the Department of Primary Industry in Orange NSW.

I became aware of this tax when, after living at Bywong for a few years, we received, out of the blue, a rate notice for \$65 from the Braidwood RLPB. The State Council had run out of money and, with the help of the current Minister for Primary Industry, put into place lower hectareage thresholds so as to convert more landholders into ratepayers. On investigation we discovered many other landholders in the same situation and realised we needed to find a way to redress this administrative abuse.

The tax is dissected into the following parts on the invoice sent to landholders as evidenced by a copy of each of 2 rate notices addressed to us, one from Braidwood and one from Casino RLPB:

1	A General Rate	Depends on what hectareage and what rate per hectare each individual RLPP Board of Directors has decided. On land we own in Braidwood (\$54.35) and Casino (\$35.95) districts
2	An animal health rate based on a notional carrying capacity of stock units e.g.	A number which has no basis in fact. It is a guessed number of sheep (50 <i>dse</i> per ha. - <i>dry</i> sheep equivalent) which could be supported by the area. <i>Our 8 hectares has about 1.6 hectares of open pasture with the remainder being unproductive trees, forest litter and rocks which I doubt, given the size, terrain and weather, could carry even one stock unit of anything.</i> Braidwood (not mentioned), Casino (\$28.30)
3	An IT Special Purpose rate	Has never been explained. Braidwood (\$0.45), Casino (not mentioned)
4	Meat Industry Levy	Based on 59.4011 Units (? Does the 0.4011 = a hind quarter + 4 chops) (we run NO animals). Braidwood (not mentioned), Casino (\$5.35)

(Annexure 2)

The tax is levied by a plethora of Rural Lands Pasture Protection Boards. Until recently these numbered 47 across NSW. The recommendations of a second revue (two in two years at significant cost to NSW taxpayers) into the structure of the Boards has reduced the number to 14 “mega” Boards. This change is being challenged by some of the old Boards.

Here are some details of the former RLPB organisation in NSW. It highlights the arbitrary way in which taxes are levied on landholders and emphasises the discriminatory nature of this system.

By continuing with the RLPB Act the NSW State Govt discriminates against people who choose to live in rural surroundings and who live on non-pastoral parcels of land. It further discriminates by allowing the various RLP Boards to nominate the rateable areas in hectares by district. There is more collusion in the discrimination practised by RLPBs among districts. This is manifested when each board can nominate or recommend a minimum general rate by district which is then gazetted. And to have both the discriminatory areas in hectares and the minimum general rate and the minimum animal health rate varied from district to district, demonstrates the inefficiencies and discriminatory nature of the system.

When looking beyond the use of words carefully selected by the drafters of the legislation to disguise the true nature of their intentions, it is not difficult to see this tax as an excise which, as you know, is the prerogative of the Federal Government under the Australian Constitution. The RLPB tax is, as excises are, based on value/and or quantities (such as alcohol, tobacco and oil) as it is based partly on hectarage and partly on head of livestock. Terminology such as “notional carrying capacity” is, arguably, deliberately used in an attempt to circumvent the Constitution and obfuscate the taxpayer about their intentions.

(Annexure 2 is a letter written by the former Attorney General The Hon. Philip Ruddock MP to The Hon. John Cobb MP, tends to support this view.)

I have seen nothing to suggest that the structure of each of the new 14 Boards will be any different other than to ensure a professional be appointed to each.

It further discriminates among RLPB jurisdictions as the Minister on request from individual Boards adopted different hectarages for different jurisdictions which, incidentally, do not necessarily align with shire boundaries and which may include parts of multiple shires. This is evidenced by the attached extract from NSW Government Gazette 159 (pages 1/4 and 2/4). Further evidence of discrimination can be seen on Gazette 159 pages 3/4 and 4/4 where minimum general rates and minimum animal health rates per Board are set out.

(See Annexure 3 Page 1/4)

The features the system should have in order to respond to those challenges

This system represents a fourth level of bureaucracy and taxation for one section of New South Wales citizens. The functions and funding should be absorbed into the State Department of Primary Industries as is the case with every other State Government where the entire population both bears the costs of the activities and reaps the consequential rewards.

The problems with the current system

The tax discriminates between city and country (or rural) citizens by levying a tax on some of its rural landholders and not on others. This tax is further discriminatory as the tax is not calculated using the same base for all victims of the tax, the landholders.

“Rate payers” are invited to vote for membership of the RLP Boards and yet are allowed no say in the proposed changes to the structure recommended by the recent inquiry.

The work on the ground is important and in most cases it would be fair to say conducted by dedicated staff. I cannot comment further as I run no stock and consequently have never had any need for the services of any group other than Landcare, which did not come with an unannounced invoice and threat of legal action. Nor have I sought, in my Landcare activities, to bill anyone for my voluntary work.

To demonstrate, we run no farm stock on our hectareage so I’m unable to question the work done by the Boards’ employees in the rural environment as I’ve never had a need for their services. In any event our boundaries are too close to our neighbours’ to qualify us for fox baits etc. The work they undertake is, I’m told, mostly about feral animals and pasture insect pests. I must admit I’ve never seen a feral animal or grasshopper stop at a town or city limit because the residents beyond haven’t been charged RLPB rates. Strangely the Boards don’t seem interested in destructive weeds and other noxious flora.

The reforms we need to address those problems

Abolish the States entirely. If that is too difficult abolish or restrict the power of the States to introduce and levy taxes on a whim. Subject State taxes to approval by the Federal Government.

The whole Rural Lands Protection system is anachronistic and a relic of nineteenth century practices and needs to be abolished. Its agrarian socialist model of regional boards administering on-ground activities is no longer valid in an age where water management and salinity are occupying such large scientific and rural resources. There is no justification to not fund protection of valuable pasture ranges from consolidated revenue since all taxpayers benefit from the dividends and production flowing from these activities.

To have individual areas governed by a board of directors the numbers of which, in many cases if not all, exceed their staff numbers is another sign of the anachronistic nature of the existing structure. In the absence of pasture protection activities being undertaken by the Department of Primary Industries and Agriculture, the correct way to run and manage such a program would be similar to the way Landcare Australia Ltd is run. In that business model, individual groups are created as incorporated bodies to be run by volunteer directors and for the organisation to seek funding from the NSW government to finance the activities of the group with accountability being to the Department of Primary Industries.

CONCLUSION

Australia is the most over-governed and among the most heavily taxed nation, per capita, in the world. Yet we occupy the driest continent and squander its precious resources in legislative duplication, petty regional jealousies and waste of both money and energy shoring up administrative structures.

The NSW Rural Lands Protection system is wasteful and inefficient and a poor use of resources at a time in our history when we can little afford to sustain sinecures at the expense of water, salinity and weed solutions in our food producing areas.

I urge you to look carefully at this tax and the mechanisms behind it. Your remit is to look at Federal AND State taxes. RLPB taxes are an iniquitous impost because they lay a discriminatory and fourth level taxing charge on one sector of a population some of whom are not able to avail themselves of the promised return. However the real issue is that the tax is unfair even for those who are able to receive some benefit. Note also that many farmers engage the RLPBs on a paid-for contract basis for extra services provided by the RLPBs.

In my view this RLPB tax is contrary to the spirit and the laws of Federation and the Constitution. New South Wales alone of all the States adds an impost which removes the equality of trade guaranteed by our Constitution.

I commend this submission to you.

Trevor Kirk CPA FCIS

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Annexures

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| 1 | Our pages 1/2 and 2/2 | Rate notices |
| 2 | Our page 1/1 | Letter from Hon. Philip Ruddock |
| 3 | Our pages 1/4 - 4/4 | NSW Govt Gazette No. 159. Pages 105 - 108 |

RPLB Rates

The rates you pay to your local Rural Lands Protection Board allow the Board to fund the services it provides to landholders and contribute to other important statewide functions.

The *Rural Lands Protection Act 1998* requires Boards to charge rates on occupiers of land that is of a size equal to or larger than a size prescribed in the legislation for each Board's district.

Rates are charged on a two-tier basis, involving a general rate paid by all landholders and a supplementary animal health rate.

General rate

A general rate is levied on land over a certain number of hectares, a figure which varies between districts. The amount of this rate is based on the assessed carrying capacity of the land, regardless of how many stock are actually run.

The general rate assists with pest animal control work and maintenance of the Travelling Stock Reserves and other infrastructure in the district.

Animal health rate

This is an additional rate levied on rateable land on which 50 or more stock units are run.

This rate also applies if you do not notify your local Board of your stock numbers, i.e., if you fail to submit your annual land and stock return on time.

The animal health rate is used to fund the animal health services provided by Boards.

Special purpose rates

At times, your RLPB may raise a special purpose rate. An example of this was the rate levied to help fund the plague locust campaign of 2004/5, in which RLPBs helped save millions of dollars in agricultural production.

An RLPB may at times collect statutory levies on behalf of other authorities, e.g., the NSW Food Authority.

<http://www.rlpb.org.au/rlpb-rates>