



17 March 2023

Indirect and Industry Tax Policy Unit  
Personal and Indirect Tax and Charities Division  
Treasury  
Langton Cres  
Parkes ACT 2600

Via email: [industrytax@treasury.gov.au](mailto:industrytax@treasury.gov.au)

Dear Treasury,

**RE: Treasury Laws Amendment (Measures for Future Bills) Bill 2023: Tax accounting for primary producer registered emissions units**

The National Farmers' Federation (NFF) welcomes the opportunity to provide a submission to the Department regarding proposed reforms listed in the 10 February Exposure Draft on the concessional treatment of Australian Carbon Credit Units (ACCUs) for primary producers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the length and breadth of the supply chain. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

**Overview**

Several concerns have been raised and are highlighted below. The draft Bill resolves some issues, does not address others, and creates unanticipated problems.

- The Bill in its current form excludes carbon derived credits that are not ACCUs. While ACCUs are the recognised national unit and we recognise that integrity is important, this does not sufficiently recognise the opportunity of other robust mechanisms to be used. The NFF recommends that consultation with industry and regulators be commenced to consider options in this area.



- Primary producers acting as an individual or trust are treated differently to those operating as a company structure. This is both exclusionary and inequitable in-practice. It is reasonable for company structures, that otherwise meet provisions of the Income Tax Assessment Act 1997 (as amended) in relation to primary production eligibility, be allowed to treat income from carbon and biodiversity as eligible farm income so as to be able to claim those legitimate agricultural business inputs as deductions as they would for other agricultural pursuits. To this end, the NFF has proposed a consequential amendment to the ITAA Primary Production definition that would enable this;
- The failure to include biodiversity is short sighted. It is recognised that the Commonwealth's Biodiversity Markets Bill is yet to pass into law. There are already mechanisms for identifying biodiversity in Commonwealth programs, state mechanisms and in private enterprise. All of these should be eligible for treatment as primary production activities as soon as this Bill is passed by the parliament and gazetted.

The NFF welcomes the incorporation of biodiversity at the earliest time. If incorporated, biodiversity credits should not be strictly aligned to Commonwealth methodologies, and the NFF welcomes further discussion in this matter when appropriate.

To address this issue of non-inclusion of company structures, it is the position of the NFF that a consequential amendment is made to the Income Tax Assessment Act (ITAA) to change and widen the definition of a primary producer registered emissions unit to include individuals, trusts, and/or companies. This would be a reasonable way to ensure that companies are included rather than excluded, granting them an equal opportunity to deduct business expenses.

#### **Income Tax Assessment Act 1997 Primary Producer Definition**

*A primary producer is an individual, partnership, trust, or company operating a primary production business. As defined under the Income Tax Assessment Act (ITAA), a primary production business is a business that meets either one of the following conditions:*

- *Cultivates or propagates plants and/or fungi or their products or parts in any physical environment.*
- *Maintains animals to sell in the future.*
- *Manufactures dairy produce from raw material produced by the business.*



- *Conducts operations to catch fish, turtles, dugong, beche-de-mer, crustaceans or aquatic molluscs.*
- *Conducts operations to take or culture pearls or their shells.*
- *Plants or tends trees in a plantation or forest intended to be felled.*
- *Fells trees in a plantation or forest.*
- *Transports trees or their parts that the business felled in a plantation or forest to the place: a) Where they are first milled or processed, b) Where they will be transported to another place to be first milled or processed.*
- *Creates eligible carbon or biodiversity credits within the boundaries of the enterprise.*

The NFF does not support the passage of the Bill in its current form, it would be enthusiastically supported if it was amended as suggested above. In the event that these adjustments are not made, then as subsequent legislation is developed a more consultative process with the NFF before legislation is drafted and released would be welcomed. This would ensure that any shortcomings or issues from an agricultural perspective can be addressed proactively in a timely manner.

The NFF thanks the Treasury for the opportunity to provide a submission regarding the proposed reforms. The policy contact for this matter is Warwick Ragg, General Manager (Natural Resource Management) via e-mail: [WRagg@nff.org.au](mailto:WRagg@nff.org.au) or phone (02) 6269 5666.

Yours sincerely,

**TONY MAHAR**  
Chief Executive Officer