Issues for Primary Producers/Farmers

HIGGINS WOOD
AND ASSOCIATES

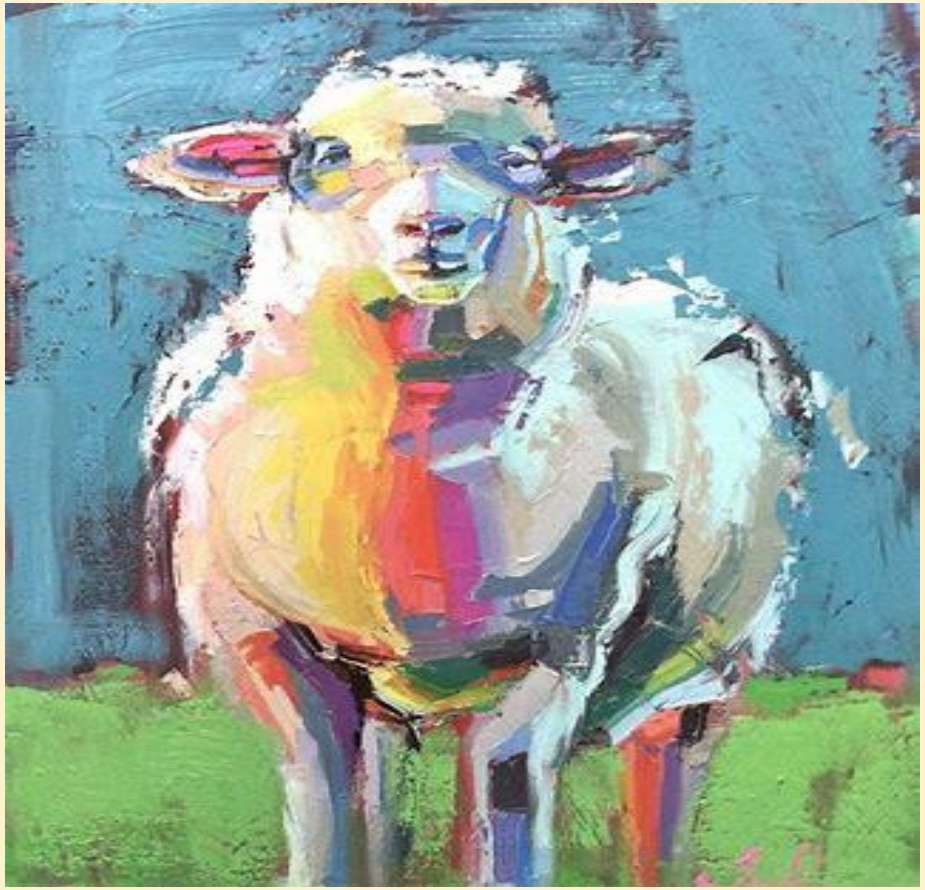
Specialists in:

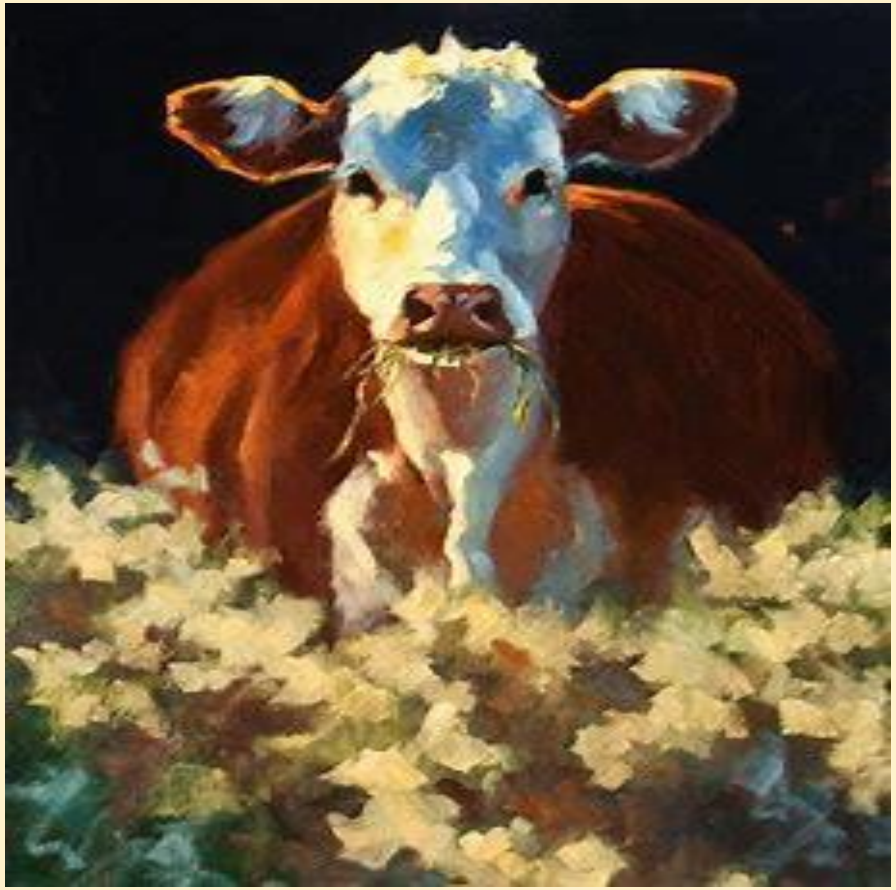
- **Self-Managed Super Funds**
- **Business Accounting**
- **Property Investment**
- **Personal Tax**

Topics covered

1. Forced disposal/death of livestock
2. Placing your farm in a self managed superannuation fund (SMSF)
3. Income averaging for Primary Producers
4. Farm management deposit scheme

1. Forced disposal/death of livestock



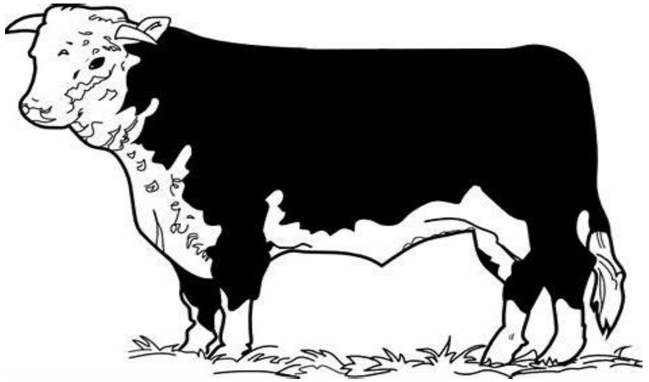


A primary producer can elect to spread or defer tax that would otherwise be payable for an income year.

The **proceeds** of a forced **disposal** or death of livestock can be either **spread** over five years or **deferred** if electing to replace livestock.

Forced **disposal** includes:

- ❖ where land is compulsorily acquired
- ❖ livestock are forcibly destroyed
- ❖ because of a cattle tick eradication program
- ❖ fire, drought or flood.



The **proceeds** are the total of the amount received on payment for the livestock/carcasses plus any compensation received from the government for the death/destruction; or a reduction in market value of the livestock/carcasses.

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Assessable income if spreading tax profit over 5 years

- In the disposal year – the proceeds of the disposal/death, reduced by the tax profit on disposal/death, plus 20% of the tax profit on disposal/death.
- For each of the four years post disposal year – 20% of the tax profit on disposal/death.

Assessable income if deferring tax profit

- In the disposal year – proceeds of the disposal/death reduced by the tax profit on disposal/death and reduced cost of replacement livestock (totalling not more than the tax profit on disposal/death).
- In remaining years post disposal year – any unused tax profit on disposal/death.

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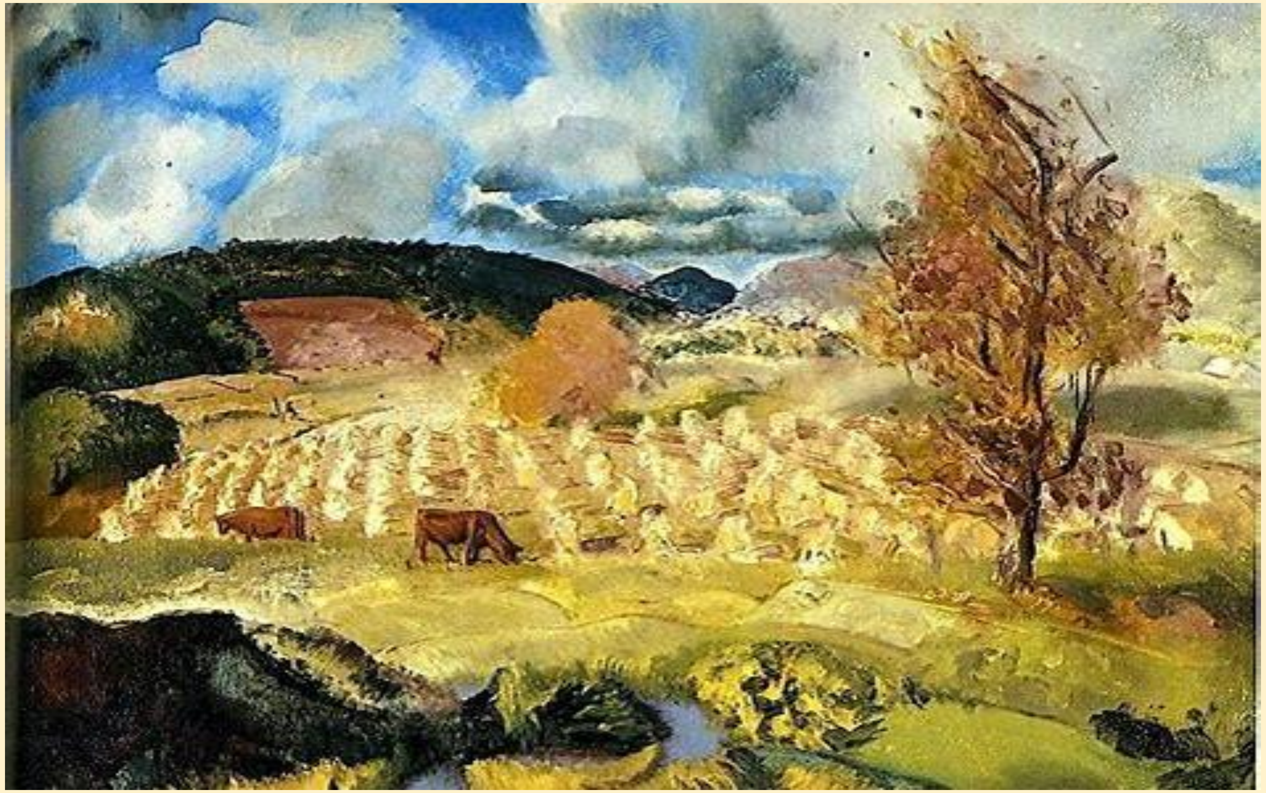
2. Placing your farm in a self-managed superannuation fund (SMSF)



What to be aware of?

1. The farm **must be a business real property** i.e. property that is used wholly and exclusively in a business.

2. The farm **must equate in size to more than half** the total area of the property.

3. If there is **a home** on the property used for private purposes (i.e. does not earn residential rent), **does not exceed 2 hectares** and is not the predominant use of the property, the farm is still considered a business real property.

4. There are additional conditions placed on a property when it is security for a **SMSF loan** e.g. you would not be able to build a house on vacant land as this would change the nature of the asset from vacant land to a residential property.

5. **Each loan must be for a single acquirable asset,** so in the case of a farm with more than one title, each title would normally be considered a separate single acquirable asset. There are exceptions.

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- It is important to ensure the SMSF does not end up owning the non real estate part of the farm operations (e.g. farm equipment).

- If the SMSF owns anything used in the farming business that is not business real property, it is considered an **inhouse asset.**

- The rule of thumb is items that can't be removed from the farm without their removal causing damage are considered part of the business real property e.g. a concrete slab, grape vines, a dam, underground irrigation pipes, concrete silo etc.

- Note that a SMSF can only hold **5% of its assets in inhouse assets** i.e. plant and equipment that is then leased to the related party business.

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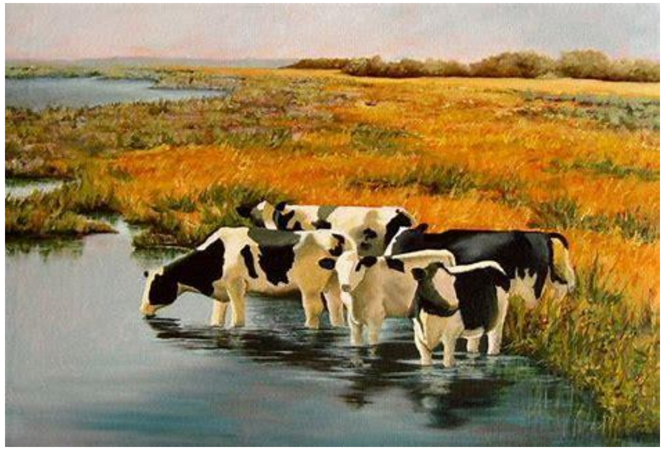
3. Income averaging for Primary Producers

Applying for income averaging

- We know your taxable income can vary from year to year – drought, bushfires, economic trends – they all impact.
- It is possible to 'even out' your income tax liability; where income tax payable can be adjusted up = extra tax is payable, or down = a tax offset.
- Averaging generally benefits primary producers in years where their basic taxable income is increasing.



Rules

- The taxpayer is an individual (alone or in partnership), who has a primary production business in Australia for two or more consecutive income years.
- The basic taxable income (taxable income less net capital gains, certain death benefit superannuation lump sums, termination payments), for at least one of those years, is less than or equal to their basic taxable income in the next income year.
- The averaging rules won't apply if basic taxable income has decreased every year since the business commenced.

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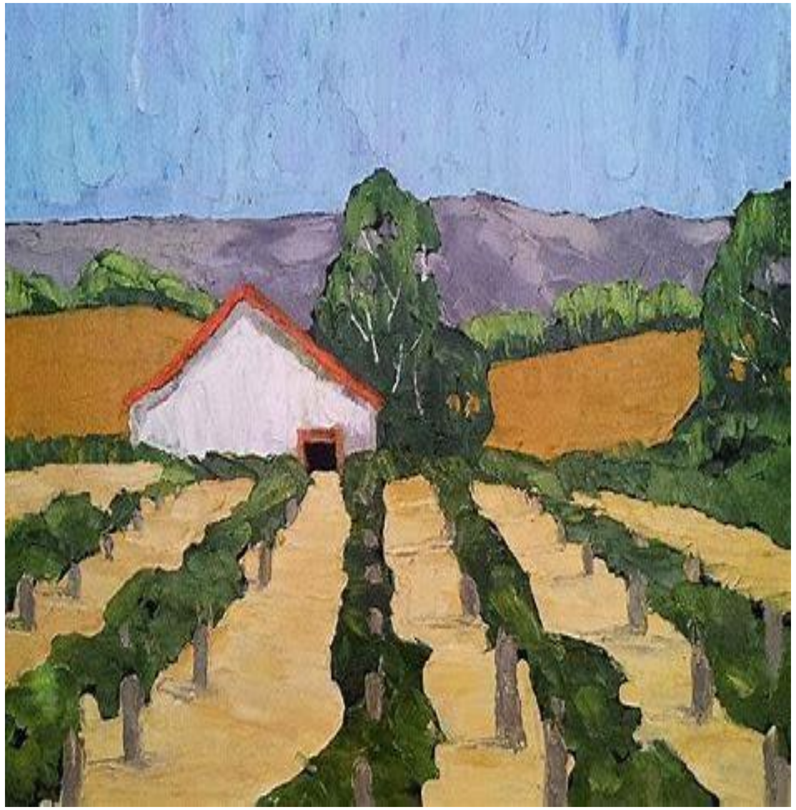


Scenario

Kendall started carrying on his farming business in 2014.

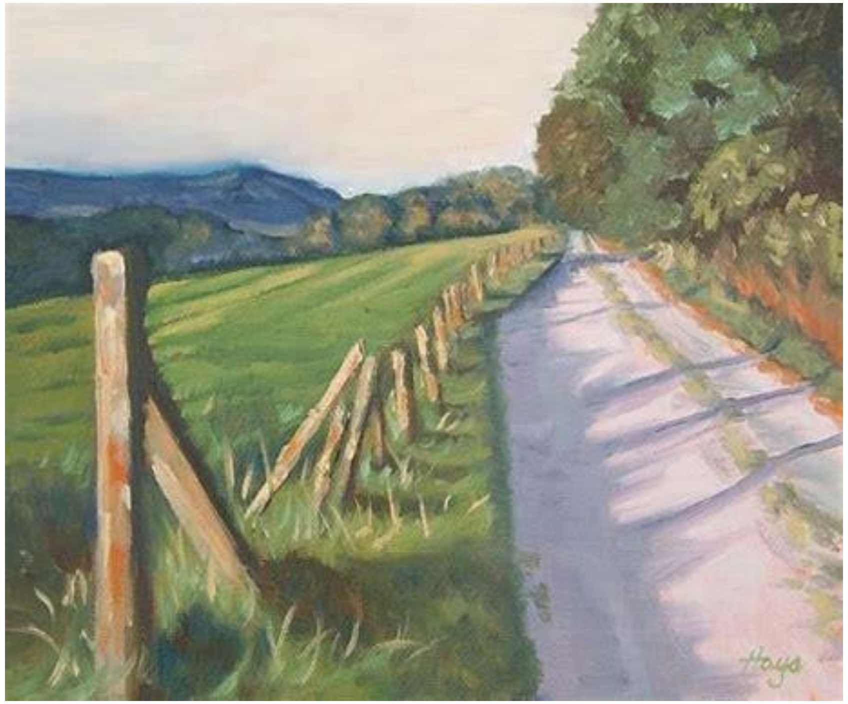
- 2015 - $14,000 (basic taxable income)
- 2016 - $32,000
- 2017 - $28,000
- 2018 - $46,000

(In 2018 he supplemented his income with some part-time work and earned $9000.00).

The averaging rules apply because, he has been running his primary production business for at least two consecutive years and his basic taxable income in 2015 was less than the next income year. It means that 2015 is the first income year for averaging.

You can opt out

- The option to **opt out** exists if the benefits no longer flow from income averaging and the primary producer then pays tax at ordinary marginal rates.
- The opt out applies for a period of 10 income years (but the opt out should have occurred in 2007 or earlier income year), after which time you can re-access the averaging rules.



NOTE: None of the years in the opt out period are taken into account if you opt back in.

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4. Farm management deposit (FMD) scheme

Available to individuals that operate a primary production business

FMD scheme allows primary producers to control uneven cash flows by putting aside assessable primary production income in years of good cash flow to draw on in years of not so good cash flow.

- Permits primary producers to **claim deductions** for amounts deposited with a farm management deposit (FMD) provider i.e. a bank, credit union or building society, under an agreement generally provided it stays there for at least **12 months.**

- The deduction is to be claimed in the year the deposit is made and acts to defer the tax payable on taxable primary production income from that income year.

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FMD – some points to note

- The minimum deposit is $1000.
- The deposit cannot create a primary production loss.
- The FMD deposit must be made by an individual who is the owner of the deposit.
- In the case of trust beneficiaries (individual beneficiary operating a primary production business that is actually carried on by the trust), the beneficiary must be entitled to a share of the trust income for an income year.
- The individual's taxable non-primary production income for the income year is not more than $100,000 (excluding net capital gains).
- The individual did not become bankrupt during the income year and did not cease to operate the primary production business after the deposit was made for 120 days or more.
- The maximum that can be held is $800,000.
- Can be withdrawn early without penalty in cases of severe drought.
- Can be linked to/offset against other loans/debts related to the primary production business, to reduce the amount of interest payable on a loan, with a reduced or nil entitlement to interest earned on the FMD.

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Exceptions to the 12 month rule

If experiencing severe drought and meets the rainfall deficiency test (http://www.bom.gov.au/climate/ada).

In the event of a natural disaster – bushfire and flood, as covered under the federal government's *Natural Disaster Relief Recovery Arrangements*.

In the case of:

- Bankruptcy
- Death
- No longer operating a primary production business (for more than 120 days).

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James Wood and his team *are happy to help you with any questions or issues you may have , provide you with related advice and are available by appointment.*

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