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## '70% DFE test' reassures forestry investors



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The current tax arrangements for forestry management investment schemes (MIS), legislated by the Federal Parliament in 2007, provide reassurance that investors' funds in contemporary MIS forestry projects will be used for the principle purpose of growing timber plantations, according to the Australian Plantation Products and Paper Industry Council (A3P).

A3P CEO, Richard Stanton, said the statutory deduction in Division 394 of the *Income Tax Assessment Act 1997* and accompanying amendments contain three measures designed to strengthen the integrity and transparency of projects carried out under these provisions. The conditions, which must be met for the investors to be able to claim and retain their tax deductions, concern the use of investors' funds, the time limit for plantation establishment, and the minimum holding period before the initial investors may on-sell their interests in the project.

"Of most significance is the so-called '70% DFE test'. When applying for a Product Ruling, the MIS forestry manager must demonstrate to the Tax Office that 70% of the investors' funds over the life of the project will be used for 'Direct Forestry Expenditure' – that is, activities directly related to establishing, managing and harvesting the plantations, plus the annual costs of land.

"These costs are calculated at net present value using arm's length prices.

"The '70% DFE test' specifically excludes the manager's expenditures on marketing the projects and paying commissions to financial planners, and on insurance, financing, contingency funds, general business overheads and other similar costs.

"This integrity measure addresses one of the concerns raised in many of the 170 submissions to the previous Government's 18-month review of the taxation of plantation forestry in 2005 and 2006.

"Having a Tax Office Product Ruling for a 2008-09 project is evidence the MIS forestry project has satisfied the '70% DFE test'. All MIS forestry projects currently available to potential investors have received Product Rulings under the Division 394 regime, providing confidence that at least 70% of investors' funds will be spent on activities directly related to plantation forestry."

Mr Stanton said that Division 394 retains the same basic principle that prevailed for decades under the general deduction provisions of Section 8-1 of *ITAA 1997* – that is, deductibility of eligible payments in the year the investors incur their expenditure.

"The creation of this specific statutory deduction was the Parliament's response to the need to provide certainty to MIS forestry investors and managers, in recognition of the increasing importance of MIS forestry to the future wood supply for Australia's plantation products and paper industry," Mr Stanton said.

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