ATTACHMENT

TAX CONCESSIONS AVAILABLE TO THE PRIMARY PRODUCTION SECTOR UNDER THE INCOME TAX ACT

Agricultural entities are taxed as per other tax payers, but with the inclusion of certain rules specific to primary production specific rules. Companies are taxed at a flat rate of 30 per cent of profits (taxable income) and individuals at the personal income tax rates (with a top marginal tax rate of 47 per cent on taxable income over K95,000)

Concessions for primary industry included in the Income Tax Act include:

<u>Section 97 Certain expenditure on land used for primary purposes</u>

A wide range of activities carried out by primary producers are permitted as deductions from assessable income.. These include:

a) The eradication or extermination of animal or vegetable pests from the land;
b) The destruction or removal of timber, scrub or undergrowth indigenous to the land;
c) The destruction of weed or plant growth detrimental to the land;
d) The preparation of the land for agriculture;
e) Plowing and grassing the land of grazing purposes;
f) The draining of swamp or low-lying lands;
g) Prevention of combating soil erosion (other than by the erection of fences);
h) The construction of dams, earth tanks, underground tanks, irrigation channels or similar structural improvements, or the sinking of bores or wells, for the purposes of conserving or conveying water from the use in carrying on primary production on the land;
i) The construction on the land of levy banks or similar improvement having like uses;
j) The construction on the land or roads, including bridges, culverts or similar works forming part of a road;
k) The planting of the land with tress, including the purchase of seed, seedlings, cuttings and similar material;
l) Where the Commissioner-General is satisfied that the land is in a district that is subject to the ravages of animal pests - the

construction or alternation of fences on the land, being fences the sole purpose of which is to prevent animal pests entering;

m) The construction and improvement of plantation employees accommodation, but not including the manger's residence or housing for any other employee deriving salary or wages income exceeding K35.00 per week.

Section 97A Deduction of agricultural development expenditure

A primary production company which has incurred 'primary production development expenditure', that is expenditure entitling it to a deduction under Section 97 or Section 73 (depreciation of certain assets) may relinquish the company's right to claim the deduction and transfer them to the shareholders.

The shareholders are then entitled to claim the deductions against their own assessable income. While the overall amount of tax paid is not significantly varied, the measure provides significant tax advantages to individual shareholders/tax-payers.

- Sections 50; 56 and 57 Spreading of income provisions

Income derived from

a) Insurance on the loss of livestock or trees (Section 50);
b) As a consequence of the compulsory acquisition or resumption of land; the loss or destruction of pastures or fodder by reason of fire, drought or flood; or the taking of land by the Government for the purpose of the eradication of cattle tick (Section 57); and
c) Compensation for the death or destruction of livestock by the State due to a disease eradication programme (Section 57A);

may be split across a five year period in equal amounts. This provides a form of income averaging, helping to smooth out years of high income with other years of (potentially) low income.

Section 73(9) Depreciation Rates

Capital plant or articles used in agricultural production are entitled to a 100 per cent write-off in the first year of use (as opposed to a write off over several years).

This measure brings forward depreciation (a deduction) and hence increases the internal rate of return of agricultural projects.

Sections 101 and 101A Losses of previous years (incurred in engaging in primary production)

Section 101A provides for the separation of losses incurred from primary production from losses incurred generally.

While general losses must be offset within 20 years, primary production losses are not subject to any time limitation and can be carried forward indefinitely until absorbed.

Income Tax (withholding) Tax and Interest (withholding) Tax Rates (2004 Budget Provisions Amendment)

An incentive primary production income tax rate of 20% (against normal 30%) is provided to companies involved in primary production for a period commencing on a date of construction, clearing or planting was started and ending at the end of the tenth full tax year after the date of commencement.

"Incentive rate primary production income" means income from primary production derived by a company from a new primary production development project that is –

a) a project with a capital cost not less than K5.0 million;
b) located in an area in which primary production of the crop or the livestock proposed was not previously carried out, or not previously carried out on a large scale; and
c) that is not an extension or development of an existing primary production project; and
d) that commenced construction, clearing or planting during the period 1 January 2004 to 31 December 2006.