

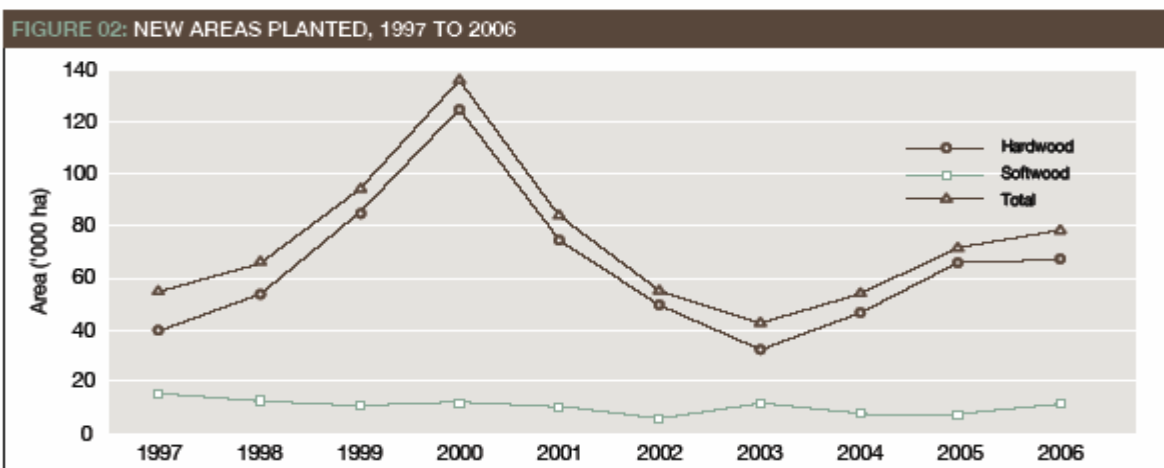
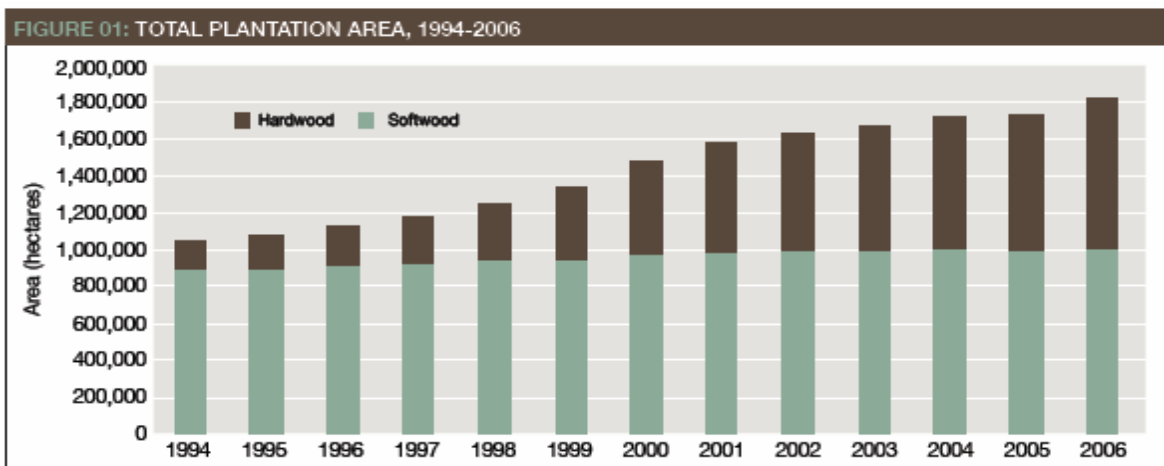
**Issue**

Following a review of the Managed Investment Scheme industry in 2006 the Federal Government made changes to the taxation treatment of these schemes.

**Background**

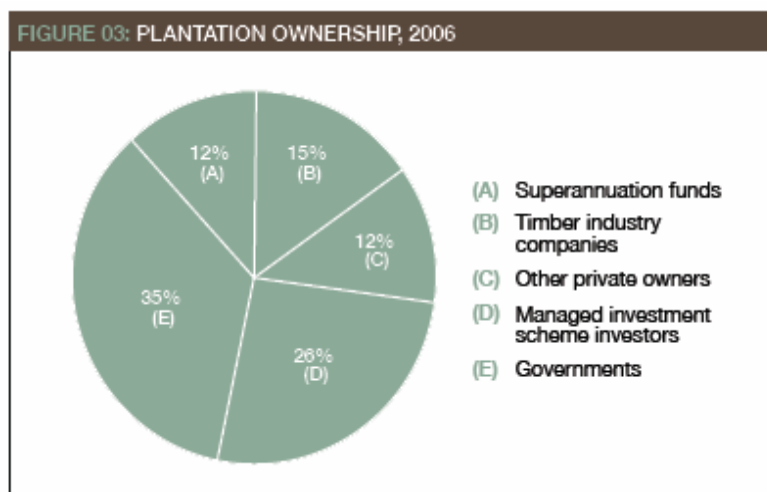
- Following a number of legislative developments in the 1990's product rulings were passed that provided MIS investors with an equivalent status to primary producers and enabled them to make deductions to offset other income for expenses incurred through the scheme.
- Separately, amendments to the Income Tax Act 1936 introduced a special provision for plantation forestry. Under the provision investors were allowed to obtain immediate deductions for funds contributed in one financial year for activities undertaken during the following year.

The following graphs<sup>1</sup> illustrate that the area of timber plantation in Australia has been growing for the last 10 years. There was a strong increase in plantation area through 1998 to 2000, when plantings tapered off. Since 2003 there has been a steady growth in the new areas planted. The plantation area in NSW plantation area has remained fairly steady between 300,000 and 350,000 ha. The reduction in new areas planted in early 2000 was due to a reduction mainly in western Australia and Victoria with the increase in new area in more recent years due to expansion in NSW and Tasmania.



<sup>1</sup> Sourced from Department of Agriculture Forestry and Fisheries Bureau of Rural Sciences, *Australia's plantations 2007 Inventory Update* available from <http://adl.brs.gov.au/mapserv/plant/index.phtml> [accessed on 6 February]  
Last updated: 5 February 2008

The following pie graph illustrates that managed investment schemes accounted for 26% of the plantation ownership in 2006. 94% of the new plantations established in 2006 are privately owned. The high rate of private investment is due to managed investment schemes, which funded 86% of all new plantations in 2006.



### The Announcements

- In the 2005-06 Budget, the Government announced that it would be extending the operation of the 12 month prepayment rule for forestry managed investment schemes (MIS) until 30 June 2008. It also announced a review of the taxation treatment of plantation forestry.
- On 9 May 2006 following the review the Government released a number of proposals for the taxation treatment of Plantation forestry. Comments were sought from the public.
- On 21 December 2006 the Government announced changes to the taxation treatment of plantation forestry. From 1 July 2007, investors in forestry MIS will be entitled to immediate upfront deductibility for all expenditure provided that at least 70 per cent of the expenditure is expenditure directly related to developing forestry. The deduction will be provided by way of a separate statutory provision. It was stated that the Government would consider arrangements for agribusiness MIS in 2007.
- On 6 February 2007 Minister Dutton announced that the Government decided it was not disposed to introduce a similar taxation arrangement for investments in non-forestry agribusiness MIS, effectively removing the deductibility provisions for agribusiness MIS. Investments in MIS that are covered by existing product rulings will be protected provided the MIS continues to operate in the manner described in the application for the product ruling.
- The ATO released a Taxation Ruling (TR 2007/08) in October 2007 which confirms the Tax Office's reconsidered view that investor contributions in agribusiness MIS are capital in nature and therefore not deductible.
- The ATO is now progressing a test case through the Federal Court to obtain judicial guidance by the end of the transitional period, 30 June 2008.

### What this means

- MIS investors in forestry projects will continue to have similar deductibility provisions as primary producers. They will be protected under the amendments made to section 394 of *the Income Tax Assessment Act 1997*
- The tax deductibility provisions for other agribusiness MIS are expected to be discontinued following judicial confirmation of the taxation ruling due in July 2008.