

TAXATION RULING NO. IT 211

FORCED DISPOSAL OF LIVESTOCK

F.O.I. EMBARGO: May be released

REF

H.O. REF: 80/3541 F10

DATE OF EFFECT:

B.O. REF:

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F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1102298

LIVESTOCK-FORCED
DISPOSAL OF
BREEDING STOCK -
MAINTENANCE OF

36AAA(1) (c)

PREAMBLE

Consideration was given to a request for clarification of certain aspects of section 36AAA(1) (c), viz : whether there was a need to maintain a separate bank account for the proceeds of a forced sale; what constitutes an acceptable proportion of proceeds to be applied to the specific purpose and what is included in the concept of maintenance of breeding stock.

RULING

2. Taking the points raised in order, it is considered that there is no need to maintain a separate bank account for the proceeds of the forced sale of livestock.

3. It is thought that the use of the word "wholly" in conjunction with "principally" suggests a rather more substantial portion of the proceeds than 50 per cent should be applied to the specific purpose. Whilst of course each case needs to be considered on its own facts, it is considered that a proportion in the order of at least 66 per cent should be so applied.

4. As regards what is involved in the concept of maintenance of breeding stock, it must firstly be recognised that the section is not concerned with the characterization of expenditure as between capital and revenue. Bearing this in mind, together with the purpose of the provision and the comments in CITCM 856, it is considered that a narrow approach should not be adopted in interpreting this concept. On this basis, the cost of providing fodder by means of engaging a contractor to push down re-growth scrub would be acceptable.

5. In a similar vein, so also would expenditure on the construction of such items as a dam, notwithstanding the long term benefit made available thereby, or a feed shed to house supplies of feed acquired to tide a primary producer over drought conditions. Having in mind these examples it is also considered that the purchase of a tractor for the purpose of pushing down re-growth scrub to provide feed during drought conditions could also be accepted as falling within the description of maintenance of breeding stock for the purposes of

the section.

COMMISSIONER OF TAXATION