


TD 92/D229 - Income tax: can income from the sale of abalone taken by a person who is licensed to take and sell the abalone under the Fisheries Act 1968 (Vic), be assessable income of a company or trust?

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This document has been finalised by TD 93/75.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: can income from the sale of abalone taken by a person who is licensed to take and sell the abalone under the *Fisheries Act 1968*(Vic), be assessable income of a company or trust?

1. No.
2. An abalone license issued under subsection 13(1) of the Fisheries Act is a personal licence which entitles the holder to take abalone for sale. Under this Act only the licence holder is permitted to sell abalone taken.
3. In these circumstances income derived from the sale is assessable to the license holder. This income cannot be assessed to a company, or trust.

Example

John Shuck is a Victorian licensed abalone diver. Income from the sale of abalone he takes is included in income tax returns lodged for the John Shuck Family Trust.

This is incorrect. The income is assessable to John Shuck and must be included in his personal income tax returns.

Commissioner of Taxation

10/12/92

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: assessable income; income splitting; income derived; sale of abalone

Legislative Ref: ITAA 6(1); ITAA 19; ITAA 25(1); Fisheries Act 1968 (Vic) 13(1); Fisheries Act 1968 (Vic) 13(5); Fisheries Act 1968 (Vic) 13D(1)

Case Ref:

ATO Ref: Box Hill Audit

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