


IT 2109 - Income tax : whether business of primary production carried on

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TAXATION RULING NO. IT 2109

INCOME TAX : WHETHER BUSINESS OF PRIMARY PRODUCTION
CARRIED ON

F.O.I. EMBARGO: May be released

REF H.O. REF: J 315/1 DATE OF EFFECT: Immediate

B.O. REF: 70566 (A.C.T.) DATE ORIG. MEMO ISSUED: 02.07.84

F.O.I INDEX DETAIL

REFERENCE NO.:	SUBJECT REFS:	LEGISLAT. REFS:
I 1122007	BUSINESS	
	PRIMARY PRODUCTION	6(1)
	ALLOWABLE DEDUCTIONS	51(1)

PREAMBLE By memorandum of 2 July 1984 it was stated that no appeal would be lodged against a recent decision of Taxation Board of Review No.1, reported as Case R37 84 ATC 341 and Case 91 27 CTBR (NS) 770 in which the Board accepted that the taxpayer was carrying on a business of primary production.

FACTS

2. The Board had to decide whether the taxpayer was carrying on a part-time business of primary production (prior to 1 July 1980 in partnership with his wife) on 40 acres of land. The property had been purchased by the taxpayer and his wife as joint tenants in 1970. It was situated 34 miles from their residence. Both the taxpayer and his wife were engaged in full-time employment, as public servant and nursing home manager respectively.

3. The taxpayer gave evidence of extensive improvements to the land having been effected in the early years by the partners including pasture improvement, erection of fences, cattle-yards and shed, construction of three dams, planting of trees and completion of an access road. He claimed that the partners had intended to breed a herd of pure-bred Charolais cattle from a three-quarter Charolais cow and a three-quarter Charolais bull they purchased in 1978. They planned eventually to conduct a Charolais cattle stud. There had been up to nine and seven head respectively on hand in the years in question, including some Hereford-Charolais cross-bred cattle sired by the bull. However the more pedigreed nucleus of the future stud never increased from two.

4. Mr Pape (with whom the other members agreed) found that although the activities after June 1977 had been at a reduced level, a business of primary production had been carried on during the years in issue. As regards the taxpayer's slowness in building up a stud by cross-breeding with commercial cattle and by use of artificial insemination, Mr Pape relied on the fact of the drought having suspended these activities. He found that the activities were never resumed because of the sale of the

property as part of a property settlement between the taxpayer and his wife. During the drought and up until sale, the property had been held on a care and maintenance basis.

5. However, Mr Pape stated that the real issue in the case was the quantum of the claims. He did not accept that the taxpayer had discharged the onus of proof in respect of all of his major claims for both years (namely, telephone, interest and motor vehicle expenses) because of the paucity of evidence adduced. He also found that the evidence did not support the taxpayer's proposition that the partnership was dissolved at the beginning of the 1981 income year. Accordingly for that year the taxpayer's claim as a sole trader for deduction of a loss of \$2,850 was decreased to a half share of a partnership loss of \$562, i.e., \$281. For the income year ended 30 June 1980 the partnership loss was decreased from \$3,920 (1/2 share \$1,960) to \$1,079 (taxpayer's 1/2 share \$540).

RULING

6. The decision is one which was open to the Board on the evidence in this particular case and has been accepted. It has no wider application.

COMMISSIONER OF TAXATION

8 August 1984

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