


# ***IT 229 - Application of averaging provisions : sale of pastoral property***

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TAXATION RULING NO. IT 229

APPLICATION OF AVERAGING PROVISIONS : SALE OF PASTORAL  
PROPERTY

F.O.I. EMBARGO: May be released

REF

H.O. REF: 80/5951 F43

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SUBJECT REFS:

LEGISLAT. REFS:

I 1102655

SALE OF PASTORAL

156(1)

PROPERTY

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DEPRECIATION -

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RECOUPMENT

AVERAGING PROVISIONS

PREAMBLE

The following advice was forwarded to Branch Offices as a result of a request for reference to the Board of Review.

2. The question at issue was whether the averaging provisions should be applied to the taxpayers' assessments for the year ended 30 June 1977 in circumstances where a contract for sale of their pastoral property was signed on 1 May 1976, settlement was effected on 19 August 1976 and as a result of the sale recoupment of depreciation of farm assets was included in the taxpayers' assessable incomes for the year ended 30 June 1977. The real question, therefore, is whether the taxpayers' primary production business had ceased before the beginning of the year of income in question, viz 1 July 1976.

RULING

3. The situation is somewhat similar to the case where a taxpayer receives amounts from wheat or barley pools in a year subsequent to the sale of a primary production business. As indicated in an earlier memorandum, the policy with such cases is to allow the taxpayer the benefit of the averaging provisions in the latter year. The mere receipt of income from a wheat or barley pool does not of itself necessarily constitute the carrying on of a business of primary production but where such income is received in a year of income subsequent to the year in which the assets used in producing the crop were disposed of, the taxpayer is to be regarded as continuing in a business as a primary producer for the purposes of the averaging provisions.

4. While receipts from crop pools are more clearly perceived to be primary production receipts, for consistency there should be no difference in treatment were the assessable income is derived from the sale of plant used in a business of primary production. It is agreed that the denial of the benefit of the averaging provisions may be strictly and technically correct but such a narrow interpretation, if taken to extremes, would produce an illogical and unintended result.

COMMISSIONER OF TAXATION