TD 93/94 - Income tax: can land on which handling facilities and feedlots are used in a business of livesheep export be regarded as being used for the purposes of agricultural or pastoral pursuits so as to be eligible for the special primary production depreciation concessions in the Income Tax Assessment Act 1936 ?

This cover sheet is provided for information only. It does not form part of *TD 93/94 - Income tax: can land on which handling facilities and feedlots are used in a business of livesheep export be regarded as being used for the purposes of agricultural or pastoral pursuits so as to be eligible for the special primary production depreciation concessions in the Income Tax Assessment Act 1936 ?*

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This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part . Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: can land on which handling facilities and feedlots are used in a business of livesheep export be regarded as being used for the purposes of agricultural or pastoral pursuits so as to be eligible for the special primary production depreciation concessions in the *Income Tax Assessment Act 1936*?

1. No. The land upon which such facilities and improvements are erected is not used for the purposes of agricultural or pastoral pursuits.

2. The business of a livesheep exporter is not a business of primary production.

3. Even where the operations are conducted on part of a farming property, it is considered that the land in question is not used for the purpose of agricultural or pastoral pursuits, notwithstanding that the land had previously been used for such pursuits, i.e. for farming.

4. Livesheep exporters are not as a general rule engaged in normal farming operations, however where their activities are conducted concurrently with such operations, whether or not on the same farming property, the two businesses are to be treated as separate and the land upon which the structural improvements and facilities are erected regarded as not being land used for the purposes of agricultural and pastoral pursuits.

5. Consequently, handling facilities and feedlots on land used by livesheep exporters do not qualify for the special depreciation concessions normally available to primary producers. For example, depreciation on structural improvements (paragraph 54(2)(b), former section 57AE and former section 57AH) is not allowable.

Commissioner of Taxation
27/5/93

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