

TD 95/6 - Income tax: does a disposal of livestock because of the loss of pasture or fodder as a result of drought qualify for the concessions in subsection 36(3) or section 36AAA of the Income Tax Assessment Act 1936 even though the disposal takes place after the drought declaration is withdrawn for the area in which the livestock or pasture was located?

 This cover sheet is provided for information only. It does not form part of *TD 95/6 - Income tax: does a disposal of livestock because of the loss of pasture or fodder as a result of drought qualify for the concessions in subsection 36(3) or section 36AAA of the Income Tax Assessment Act 1936 even though the disposal takes place after the drought declaration is withdrawn for the area in which the livestock or pasture was located?*

 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

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: does a disposal of livestock because of the loss of pasture or fodder as a result of drought qualify for the concessions in subsection 36(3) or section 36AAA of the *Income Tax Assessment Act 1936* even though the disposal takes place after the drought declaration is withdrawn for the area in which the livestock or pasture was located?

1. Yes. Subsection 36(3) and section 36AAA provide concessions to a taxpayer where, in consequence of the loss or destruction of pastures or fodder by reason of drought, the taxpayer disposes of livestock that is an asset of a business of primary production. The fact that the disposal takes place after the withdrawal of the official drought declaration for the area does not change the fact that the disposal is a result of the loss of pasture or fodder. Consequently, providing that the other requirements of the legislation are satisfied, the taxpayer would be entitled to the concessions available under subsection 36(3) or section 36AAA.

2. It is a question of fact whether the disposal is a consequence of the loss of pasture or fodder by reason of drought.

Commissioner of Taxation

6/4/95

FOI INDEX DETAIL: Reference No. I 1016027 Previously issued as Draft TD 93/D74

Related Determinations:

Related Rulings:

Subject Ref: drought; forced disposal; livestock

Legislative Ref: ITAA 36(3); ITAA 36AAA

Case Ref:

ATO Ref: D/920025/PAR; NAT 95/2034-1

ISSN 1038 - 8982