


TR 94/9W - Income tax: income from the sale of tobacco leaf

 This cover sheet is provided for information only. It does not form part of *TR 94/9W - Income tax: income from the sale of tobacco leaf*

 This document has changed over time. This is a consolidated version of the ruling which was published on *1 November 2006*



Notice of Withdrawal

Taxation Ruling

Income tax: income from the sale of tobacco leaf

Taxation Ruling TR 94/9 is withdrawn with effect from today.

1. Taxation Ruling TR 94/9 explains:
 - (i) why tobacco leaf stored by tobacco growers on their farms is not 'trading stock on hand' for the purposes of section 28 of the *Income Tax Assessment Act 1936*; and
 - (ii) when tobacco growers are to return as income, amounts received from the sale of tobacco leaf.
2. The Ruling relied on the fact that State laws divested the property in tobacco leaf from the growers when it was ready for sale, and invested the property in the leaf in statutory marketing boards. Even when the leaf was grown in excess of quota and remained on the grower's property, it still belonged to the relevant marketing board, which insured the leaf from the date of harvest.
3. The following laws were repealed under a deregulation strategy, changing the material facts on which the Ruling relies:
 - *Tobacco Industry Stabilisation Act 1965* (QLD) with effect from 1 September 1996;
 - *Tobacco Leaf Stabilisation Act 1967* (NSW) with effect from 3 April 1997; and
 - *Tobacco Leaf Stabilisation Act 1966* (VIC) and *Marketing of Primary Products Act 1958* (VIC) with effect from 7 June 1994.
4. As a result of these material changes, the Ruling is no longer current and is now withdrawn. The Ruling, however, remains current for income years, or part thereof, occurring prior to the date of withdrawal of the relevant State Government legislation.
5. For further guidance about the Tax Office's views on trading stock, please refer to the following public rulings:
 - Taxation Ruling TR 2006/8 Income tax: the cost basis of valuing trading stock for taxpayers in the retail and wholesale industries

- Taxation Ruling TR 2001/5 Income tax: assessability of amounts from the sale of barley, grain or other commodities to ABB Grain Export Limited or ABB Grain Limited
- Taxation Ruling TR 2001/1 Income tax: assessability of amounts from the sale of wheat and grain to AWB (International) Limited or AWB (Australia) Limited
- Taxation Ruling TR 98/8 Income tax: whether materials and spare parts held by a taxpayer supplying services are trading stock
- Taxation Ruling TR 98/7 Income tax: whether packaging items (ie, containers, labels, etc) held by a manufacturer, wholesaler or retailer are trading stock
- Taxation Ruling TR 98/2 Income tax: miscellaneous trading stock issues affecting the general mining, petroleum mining and quarrying industries
- Taxation Ruling TR 98/1 Income tax: determination of income; receipts versus earnings
- Taxation Ruling TR 97/15 Income tax: conditional contracts: derivation of income; allowable deductions; trading stock on hand
- Taxation Ruling TR 97/9 Income tax: sale of wool
- Taxation Ruling TR 96/20 Income tax: assessability and deductibility of prompt payment discounts offered by traders of goods to their customers and certain other discounts
- TR 96/4 Income tax: valuing shares acquired as revenue assets
- Taxation Ruling TR 95/7 Income tax: lay-by sales
- Taxation Ruling TR 95/6 Income tax: primary production and forestry
- Taxation Ruling TR 94/13 Income tax: cotton growers – trading stock and derivation of income under various selling options
- Taxation Ruling TR 93/33 Income tax: gold mining: tailing dumps as trading stock of gold tailings processors and gold mining operators
- Taxation Ruling TR 93/29 Income tax: motor vehicle dealers: valuation of stock on hand: motor vehicles traded in
- Taxation Ruling TR 93/23 Income tax: valuation of trading stock subject to obsolescence or other special circumstances

- Taxation Ruling TR 93/20 Income tax: computer spare parts
- Taxation Ruling TR 93/12 Income tax: computer software
- Taxation Ruling TR 93/9 Income tax: deferral of deductions for trading stock purchases involving prepayments
- Taxation Ruling TR 93/3 Income tax: trading stock of gold miners
- Taxation Determination TD 2006/29 Income tax: foreign currency exchange gains and losses: if a foreign exchange realisation gain is made under section 775-55 of the *Income Tax Assessment Act 1997* upon payment for the acquisition of foreign currency denominated trading stock (other than livestock that is only trading stock by reason of the statutory definition of trading stock), is that gain 'ordinary income' as defined in section 6-5 of the *Income Tax Assessment Act 1997* for the purposes of subsection 45-120(1) of Schedule 1 to the *Taxation Administration Act 1953*?
- Taxation Determination TD 2005/36 Income tax: value of goods taken from stock for private use for the 2005-2006 year
- Taxation Determination TD 2005/2 Income tax: does a resident of a country with which Australia has a Tax Treaty, have a permanent establishment solely from the sale of trading stock through an internet website hosted by an Australian resident internet service provider?
- Taxation Determination TD 2004/38 Income tax: value of goods taken from stock for private use for the 2004-2005 year
- Taxation Determination TD 2003/22 Income tax: value of goods taken from stock for private use for the 2003-2004 year
- Taxation Determination TD 2002/26 Income tax: value of goods taken from stock for private use
- Taxation Determination TD 2002/18 Income tax: is a deduction under section 8-1 of the *Income Tax Assessment Act 1997* allowable for underwriting fees paid as part of a harvest payment agreement with either AWB (International) Limited or AWB (Australia) Limited or a payment agreement with ABB Grain Export Limited?

- Taxation Determination TD 2001/25 Income tax: value of goods taken from stock for private use
- Taxation Determination TD 1999/41 Income tax: value of goods taken from stock for private use
- Taxation Determination TD 98/17 Income tax: value of goods taken from stock for private use
- Taxation Determination TD 96/45 Income tax: where a wholesaler's account for trading stock provides a retailer with a prompt payment discount which can be accumulated in an account, applied to the acquisition of new shares or transferred to an affiliated person or persons or company: can the retailer claim a deduction for the full purchase price; and is the discount assessable?
- Taxation Determination TD 96/39 Income tax: can a controlled foreign company (CFC) obtain the benefit of the trading stock exemption under section 521 of the *Income Tax Assessment Act 1936* ('the Act')?
- Taxation Determination TD 96/4 Income tax: can subsection 36A(2) of the *Income Tax Assessment Act 1936* apply if partners of a partnership that own trading assets transfer the assets to a trustee of a unit trust in which one former partner holds at least 25% of the units?
- Taxation Determination TD 96/3 Income tax: can section 36A of the *Income Tax Assessment Act 1936* apply if: (a) a sole trader who owns the trading assets of a business transfers the assets to a partnership comprising the sole trader and a trustee of a discretionary trust?; and (b) the partnership of the sole trader and the trustee, in turn, transfers the assets to the trustee?
- Taxation Determination TD 96/2 Income tax: can section 36A of the *Income Tax Assessment Act 1936* apply if a sole trader who owns trading assets declares himself or herself to be a trustee of a discretionary trust over the assets?
- Taxation Determination TD 96/1 Income tax: can section 36A of the *Income Tax Assessment Act 1936* apply if a sole trader who owns trading assets transfers the assets to another person as a trustee of a discretionary trust?

- Taxation Determination TD 95/48 Income tax: a wholesaler of computers lends demonstration computers ('demonstrators') to prospective purchasers (excluding retailers) on the basis of 'approval, exchange or return' or to retailers for display purposes only. The wholesaler retains ownership at the time of providing the demonstrators. The demonstrators are not on consignment. Are the demonstrators 'trading stock' of the wholesaler for the purposes of subsection 6(1) and 'trading stock on hand' of the wholesaler for the purposes of subsection 28(1) of the *Income Tax Assessment Act 1936* ('the Act')?
- Taxation Determination TD 94/94 Income tax: can subsection 51(2A) of the *Income Tax Assessment Act 1936* operate to deny a tax deduction, available to a motor vehicle dealer, for second schedule charges incurred when acquiring new vehicle trading stock?
- Taxation Determination TD 94/93 Income tax: are second schedule charges incurred by a motor vehicle dealer, upon the acquisition from the manufacturer/importer of a new vehicle, components of cost price for the purposes of calculating the value of that vehicle in terms of subsection 31(1) of the *Income Tax Assessment Act 1936*?
- Taxation Determination TD 94/10 Income tax: can a taxpayer after lodging a return but before any assessment is made alter the figure for closing stock by adopting a different basis of valuation to that on which the return was originally prepared?
- Taxation Determination TD 93/168 Income tax: foreign income – can 'trading stock' and 'other assets used solely in carrying on a business' come within the definition of 'tainted asset' in section 317?
- Taxation Determination TD 93/138 Income tax: has an expense been 'incurred' for the purchase of imported trading stock which is in transit by sea and for which the bills of lading or non-negotiable waybills and finance documents relating to liability for payment have not yet been accepted?
- Taxation Determination TD 93/127 Income tax: trading stock of gold miners: what is the application of subsection 31(2) of the *Income Tax Assessment Act 1936* to the low grade ore stocks where the notional market selling value is below cost?
- Taxation Determination TD 93/125 Income tax: is it necessary to do a stocktake at the end of the year?

- Taxation Determination TD 93/70 Income tax: 1. Are live pearl oysters (*Pinctada maxima*) used in a business of pearl culture, trading stock for the purposes of the *Income Tax Assessment Act 1936*?
2. What is the value to be allocated to live pearl oysters used in a business of pearl culture pursuant to section 32?
- Taxation Determination TD 93/51 Income tax: is it always necessary for a retailer to make a police complaint before taking into account stock shortages for working out the value of trading stock on hand under subsection 28(1)?
- Taxation Determination TD 93/47 Income tax: banana growers – what expenses should be included in a cost price valuation of trading stock on hand at the end of the financial year under subsection 31(1) of the *Income Tax Assessment Act 1936*?
- Taxation Determination TD 92/198 Income tax: when can a taxpayer elect the replacement price method for the valuation of trading stock under subsection 31(1)?
- Taxation Determination TD 92/156 Income tax: do the trading stock provisions apply to newsprint held by a taxpayer carrying on a business of producing newspapers?
- Taxation Determination TD 92/155 Income tax: under what circumstances is an average cost method acceptable in determining cost price of newsprint for closing stock valuation?
- Taxation Determination TD 92/132 Income tax: property development: if land is trading stock, do related interest costs, council rates and land taxes, form part of the cost price for trading stock valuation purposes?
- Taxation Determination TD 92/124 Income tax: property development: in what circumstances is land treated as 'trading stock'?
- Income Tax Ruling IT 2670 Income tax: meaning of 'trading stock on hand'
- Income Tax Ruling IT 2667 Income tax: trading stock valuation of freshwater crayfish
- Income Tax Ruling IT 2659 Income tax: value of goods taken from stock for private use
- Income Tax Ruling IT 2498 Income tax: foreign tax credit system: currency translation of foreign income: trading stock and depreciable plant: basis of returning foreign income: capital gains/losses

- Income Tax Ruling IT 2472 Income tax: whether goods on consignment are trading stock
- Income Tax Ruling IT 2402 Income tax: absorption cost basis of valuing trading stock – fringe benefits tax
- Income Tax Ruling IT 2350 Income tax: value of trading stock on hand at end of year: cost price: absorption cost
- Income Tax Ruling IT 2325 Income tax: deduction for cost of motor vehicles under floor plan arrangements
- Income Tax Ruling IT 2289 Income tax: valuation of trading stock – average cost or actual cost
- Income Tax Ruling IT 2001 Winemakers – valuation of winestocks
- Income Tax Ruling IT 217 Trading stock – value of poultry on hand
- Income Tax Ruling IT 147 Wheat as trading stock
- Income Tax Ruling IT 88 Income tax: trading stock – Commonwealth securities held by authorised dealers in the short term money market
- Income Tax Ruling IT 81 Trading stock: hire and rental business
- Income Tax Ruling IT 33 Valuation of trading stock for nursery men

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ATO references

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~~ when income derived