


# ***TD 93/D18 - Income tax: are live oyster shell used in a business of pearl culture, trading stock for the purposes of the Income Tax Assessment Act 1936 (ITAA)?***

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This document has been finalised by TD 93/70.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Income tax: are live oyster shell used in a business of pearl culture, trading stock for the purposes of the *Income Tax Assessment Act 1936* (ITAA)?**

1. Yes. Trading stock is defined in subsection 6(1) of the ITAA to include live stock. In the same section, live stock is defined to exclude only beasts of burden or working beasts in businesses other than primary production. All animals are thus live stock in a business of primary production (*FCT v Wade* (1951) 84 CLR 105). Primary production is defined in subsection 6(1) to include production resulting directly from fishing operations, and 'fishing operations' are defined to include pearling operations. The *Pinctada maxima* and the like are animals.

2. The trading stock provisions are thus applicable to live shell used in a business of pearl culturing.

**Commissioner of Taxation**

04/02/93

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FOI INDEX DETAIL: Reference No.

Related Rulings: IT 2667

Related Determinations: TD 93/D12

Subject Ref: live stock; trading stock; primary production; pearl producers

Legislative Ref: ITAA 6(1); ITAA 28

Case Ref: *FC of T v Wade* (1951) 84 CLR 105

ATO Ref: NOR J36/355/2

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