


***TD 93/D74 - 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section 36AAA of the Income Tax Assessment Act 1936 even though the sale takes place after the drought declaration is withdrawn for the area in which the livestock or pasture was located?***

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This document has been finalised by TD 95/6.

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: 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section 36AAA of the *Income Tax Assessment Act 1936* even though the sale takes place after the drought declaration is withdrawn for the area in which the livestock or pasture was located?**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. The taxpayer bears the onus of proving that the disposal of livestock was caused by the loss of the pasture or fodder.

**Commissioner of Taxation**  
18/3/93

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