



IT 232 - Compulsory destruction of livestock

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There is an Addendum notice for this document.

This document has been Withdrawn.


There is a Withdrawal notice for this document.

 This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

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TAXATION RULING NO. IT 232

COMPULSORY DESTRUCTION OF LIVESTOCK

F.O.I. EMBARGO: May be released

REF

N.O. REF: J85/122 P4 F343

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 08.05.80

F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

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FORCED DISPOSAL OF
LIVESTOCK
COMPULSORY DESTRUCTION
OF LIVESTOCK
DESTOCKING OF PROPERTY

36AA

PREAMBLE

Consideration has been given to the manner in which section 36AA was being applied in circumstances where a primary producer, in complying with an order to de-stock his property as part of the programme for the eradication of certain diseases, e.g., brucellosis and tuberculosis, sells livestock by auction or private sale to an abattoir or meatworks for destruction.

RULING

2. In some cases the section was not applied in these circumstances on the grounds that the livestock would not form part of the business of primary production at the time of destruction as is required by the section - the sale to the abattoir or meatworks would carry with it the consequence that the property in the livestock would have passed to the purchaser prior to the time of destruction. Furthermore, it could hardly be said that the proceeds of the cattle to an abattoir or meatworks in these circumstances represented proceeds from the sale of the carcasses or part of the carcasses as is required in subsection (7) of section 36AA.

3. While the matter may not be free from doubt it has been decided that section 36AA does not require that the livestock should form part of the assets of a business of primary production at the date of destruction. State legislation relating to the control of disease in livestock provides measures for the seizure of diseased livestock. It is accepted that compensation payable in respect of diseased stock destroyed after seizure would attract the operation of section 36AA. It is similarly accepted that the sale of livestock to an abattoir or meatworks pursuant to an order for the destruction of the livestock for the purpose of eradicating disease is a situation to which section 36AA applies. As an order for the destruction of diseased livestock invariably carries with it the requirement that the livestock be slaughtered immediately it is also accepted that the payment for the livestock is in reality a payment for the carcasses within the meaning of subsection (7).

4. In general terms this decision means that section 36AA will apply where livestock forming part of the assets of a business of primary production are the subject of an order for their destruction made in pursuance of a law of the Commonwealth, of a State or of a Territory relating to the destruction of livestock for the purposes of controlling or eradicating a disease, are destroyed in pursuance of that order, and a profit in terms of the section arises from their destruction.

COMMISSIONER OF TAXATION