TD 93/95 - Income tax: is a taxpayer who carries on business as a livesheep exporter carrying on a business of primary production?

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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: is a taxpayer who carries on business as a livesheep exporter carrying on a business of primary production?

1. No. The business of a "livesheep exporter" is not a business of primary production as defined in section 995-1 of the *Income Tax Assessment Act 1997*.

2. The purchase, transportation, shearing, handling, temporary holding and preparation in feedlots of sheep for export, is not considered to be a business of primary production when conducted by a livesheep exporter, as distinct from a farmer or grazier carrying on traditional farming operations.

3. Any production activity which may occur, is incidental to the operations and insufficient to bring them within the definition of primary production.

4. Even where the operations are conducted on part of a farming property, the business still does not become one of primary production, nor is that part of the property used for the purpose of agricultural or pastoral pursuits.

5. It follows that the special concessions allowable to primary producers are not allowable to "livesheep exporters". For example, deductions for certain expenditure associated with land under the provisions of subdivision 40-G, are not allowable.

Commissioner of Taxation
27/5/93

FOI INDEX DETAIL: Reference No. I 1215007 Previously issued as Draft 93/D56
Related Determinations: TD 93/94
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Subject Ref: Primary production; livesheep export
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