


STD 1999/2 - Fitting of a new prefabricated tray body to a new cab-chassis.

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This document is a ruling for the purposes of section 77 of the *Sales Tax Assessment Act 1992* and may be relied upon by any person to whom it applies.

Sales Tax Determination

Title: **Fitting of a new prefabricated tray body to a new cab-chassis.**

Background

A new prefabricated tray body may be fitted to a new cab-chassis by the body builder who manufactures the prefabricated tray body or may be fitted by other persons who purchase a new prefabricated tray body. The fitting process is not always complex with many trays being attached to the cab-chassis by bolts or welded to the mounting bracket. Time taken for the fitting process is generally 1.5 to 2 hours.

Bodies representing the motor vehicle industry have asked whether the fitting of a new prefabricated tray body to a new cab-chassis, where the process of attachment is minimal, constitutes manufacture. They contend that the fitting of a new prefabricated tray body in these circumstances is an upgrade/modification for the purpose of calculating the taxable value of motor vehicles covered by the Agreement on the taxable value of new motor vehicles (the Agreement). Details of the Agreement are summarised in Sales Tax Determination 98/1 – *Taxable value of motor vehicles with a gross vehicle mass of 7.5 tonnes or less*.

Issues

1. Is the fitting of a new prefabricated tray body to a new cab-chassis manufacture, including where the process of attachment is minimal?
2. If it is manufacture, who is required to account for sales tax on the complete tray truck?
3. If it is manufacture, is the complete tray truck covered by the Agreement?

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4. What is the taxable value of complete tray trucks that are not covered by the Agreement?
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Decision

1. The fitting of a new prefabricated tray body to a new cab-chassis (including where the process of attachment is minimal) is manufacture. It is not an upgrade/modification of the vehicle.

2. Any person, including a body builder, specialist fitter, retail dealer, wholesale dealer, etc, engaged in fitting a new prefabricated tray body to a new cab-chassis is a manufacturer and has a liability to account for sales tax on the manufactured tray truck (unless the small business exemption applies).

Motor vehicle wholesale finance companies and wholesale dealers, who sell a new cab-chassis with a new prefabricated tray fitted have a liability to account for sales tax on the complete tray truck. They may obtain the new prefabricated tray body tax free by quoting their sales tax registration number to the body builder or fitter.

3. Tray trucks are covered by the Agreement provided the complete tray truck has a List Price (not just the cab-chassis) and all persons involved in assessable dealings with the tray truck have entered into the Agreement with the Commissioner. In the Agreement:

'List Price means the recommended list price, or amended list price, which is the tax exclusive retail selling price recommended by the manufacturer or importer to all dealers and distributors, notified and issued throughout Australia for a particular make and model of vehicle.'

A manufacturer includes those mentioned in 2. above.

The normal taxable value of a complete tray truck covered by the Agreement is List Price less 22.25% (with some exceptions as outlined in paragraphs 1(b) to 1(e) under 'Decisions' in Sales Tax Determination STD 98/1).

4. The taxable value of a complete tray truck **not covered** by the Agreement should be calculated in accordance with the general principles of the sales tax law. Taxation Ruling SST 6 *Sales tax: taxable value*, provides guidance on the calculation of taxable values. The most common circumstances and taxable values that apply are outlined below.

- *Retail dealer supplies a tax paid cab-chassis to a bodybuilder/fitter.*

Where a new cab-chassis is supplied to a body builder or specialist fitter by a retail dealer to have the prefabricated tray fitted, the taxable value is the total price charged, including the fitting charge. The specialist fitter or body builder is required to account for sales tax on this taxable value. This taxable value applies provided the retail dealer or customer has title to the cab-chassis at the time the prefabricated tray is fitted.

- *Fitting of the prefabricated tray body to the cab-chassis by a retail dealer.*

Where motor vehicle retail dealers fit the prefabricated tray body to a cab-chassis owned by them, the taxable value is the notional wholesale selling price of the complete tray truck. In these circumstances, retail dealers may adopt the taxable value in *Safe Harbour 4* in SST 6 - manufacturing costs (including the cost of the cab-chassis, prefabricated tray body and fitting charge), plus one-third of the difference between that amount and the retail selling price (excluding tax) of the complete tray truck.

Retail dealers may obtain the cab-chassis and tray tax free by quoting their sales tax registration number or they may claim a credit if sales tax has been paid on them.

- *Wholesalers who have prefabricated tray bodies fitted to a cab-chassis.*

Where prefabricated tray bodies are fitted before the complete tray truck is sold by a wholesaler, i.e., motor vehicle wholesale dealer or finance company, the taxable value is the price for which the complete tray truck is sold, including the cost of the cab-chassis, prefabricated tray body and the fitting charge. This taxable value applies whether the fitting is done by the wholesaler themselves or the cab-chassis is supplied to a specialist fitter or body builder for fitting of the prefabricated tray body.

Where a wholesale dealer sells exclusively to a related retail dealer, the selling price must reflect the arm's length price of the complete tray truck. *Safe Harbour 20* in *SST 6* allows a person to adopt a taxable value as the lesser of the arm's length into store cost, plus one third of the difference between that amount and the retail selling price (excluding tax), or the arm's length into store cost plus 10%, of the complete tray truck.

Date of effect

This Determination is effective immediately. It replaces any previous public or private rulings that are inconsistent with it. If any person has been acting on the basis of any such previous ruling, they have three months from the date of this Determination to comply with the Determination.

Reasons

The word 'manufacture' is defined in section 5 of the *Sales Tax Assessment Act 1992* to include:

We have based our decision on the following legislative provisions:

Sales Tax Assessment Act 1992 section 5 and Table 1 in Schedule 1

And case law:

McNicol v Pinch [1906] 2 KB 352; FC of T v Brambles Holdings Ltd 94 ATC 4165; (1994) 28 ATR 1.

- (a) production;
- (b) combining parts or ingredients so as to form an article or substance that is commercially distinct from the parts or ingredients...

The word 'includes' introduces an enlarging, but not exhaustive definition. In line with principles of statutory interpretation, the meaning of the word 'manufacture' is taken to be the ordinary meaning of the word plus the defined meaning.

Darling J in *McNicol v Pinch* (at p361) stated that:

'the essence of making or of manufacturing is that what is made shall be a different thing from that out of which it is made.'

Drummond J in *FC of T v Brambles Holdings Ltd* commented (at ATC p4168; ATR p4) that in applying the word manufacture:

'.....it has long been accepted that one is required to ask whether that which is made is a different thing from that out of which it is made.'

In that case, which was an appeal against a decision of the Administrative Appeals Tribunal (AAT), the Federal Court held that it was open for the AAT to find that the attachment of a new body to a new cab-chassis involved the creation of a new entity and therefore amounted to the manufacture of goods.

The fitting of a new prefabricated tray body to a new cab-chassis (including where the fitting process is minimal) involves manufacture. A new entity is created, i.e., a tray truck, which is commercially distinct from the individual components from which it is made.

Communication of the Decision

This Determination has been made available for publication by the sales tax publishing houses and will be provided directly to industry bodies.

Commissioner of Taxation 24 March 1999

Previous draft:

[No draft issued](#)

Related Rulings/Determinations:

[STD 98/1](#); [SST 6](#)

Subject references:

[motor vehicles](#); [spare parts and accessories](#); [manufacture](#); [taxable value](#); [section 43 agreement](#); [motor vehicle body builders](#)

Legislative references:

[STAA: section 5](#); [Table 1 in Schedule 1](#)

Case references:

[McNicol v Pinch \[1906\] 2 KB 352](#); [FC of T v Brambles Holdings Ltd 94 ATC 4165](#); (1994) 28 ATR 1

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