

STD 95/7 - Title: Classification of scissors



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Sales Tax Determination

Title: Classification of scissors

Background

There are many different types of scissors (some types are called shears or secateurs) on the market. Examples are surgical scissors, special purpose scissors for use in embroidery, hairdressing, dressmaking and food preparation and general purpose scissors of various lengths and sizes.

The Australian Taxation Office (ATO) has received a number of complaints from wholesalers of scissors on the basis that different rates of sales tax rate are being applied. This concern about inconsistency appears to be due mainly to the belief that because some types of scissors are goods of a kind used within the household, they are covered by the concessional rate of sales tax.

This determination sets out the ATO view on the classification of scissors and explains the reasons for different rates applying to them.

Issue

What rates of sales tax apply to different types of scissors?

Decision

- Surgical scissors are covered by *subitem 81(1)* in *Schedule 1* and are exempt from sales tax.
- Scissors of a kind ordinarily used for preparation of food, such as poultry and kitchen shears, are covered by *subitem 1(b)* in **Schedule 2 and taxable at the concessional rate, which is currently 12%**. Scissors covered by *subitem 1(b)* would also be covered by *subitem 1(s)* in *Schedule 2* as kitchen utensils.
- Other types of special and general purpose scissors are covered by **Schedule 4 and are taxable at the general rate, which is currently 22%**.

NOTE: Any type of scissors may be used by a registered manufacturer mainly in carrying out manufacture-related activities. In these cases the manufacturer would be entitled to exemption under *subitem 18(1)* in *Schedule 1* and could buy the scissors free of tax under quotation of a sales tax registration number.

Where tax has been paid on scissors at a rate higher than that stated in this determination, it will have been overpaid within the meaning of the credit provisions in the sales tax law. An entitlement to a credit will be subject to a claimant satisfying the normal requirements of the relevant credit provision.

Date of effect

This determination reflects changes in the sales tax law that came into effect on 1 January 1993. It replaces any previous taxation rulings to the extent that they are inconsistent with this determination. If any person has been acting on the basis of any such previous ruling, they have until 1 October 1995 to comply with this determination.

Reasons

We have based our decision on the following legislative provisions:

subitems 1(b), 1(d) and 1(s) in Schedule 2 to the Sales Tax (Exemptions and Classifications) Act 1992

Prior to 1 January 1993 the sales tax legislation taxed *cutlery* at the concessional rate of tax and many types of scissors were considered to be cutlery.

From 1 January 1993 the Streamlined Sales Tax legislation was introduced and the reference to cutlery was omitted and replaced by *subitems 1(b) and 1(d)* in *Schedule 2 to the Sales Tax (Exemptions and Classifications) Act 1992*.

Subitem 1(b) covers goods of a kind ordinarily used in connection with preparing, serving or consuming food or beverages.

Subitem 1(d) covers goods of a kind ordinarily used in connection with cooking, preserving or storing food or beverages.

Also, subitem 1(s) covers kitchen utensils and hardware.

The omission of a specific reference to cutlery has removed the concessional sales tax treatment for those types of scissors that are not of a kind ordinarily used in connection with the above food activities or are not kitchen utensils or hardware.

Some scissors continue to be taxable at the concessional rate. For example kitchen shears and poultry shears are of a kind used in connection with preparing food. These types of shears have a short serrated blade with an indentation for cutting bones and can be easily distinguished from general purpose scissors.

Scissors not covered by *subitems 1(b), 1(d) or 1(s)* are taxable at the Schedule 4 rate, regardless of their length. This means that general purpose scissors and special scissors such as those used for embroidery and hairdressing are taxable at the Schedule 4 rate.

Sales Tax Ruling ST 2389 which classified scissors according to their length and use within the household is now withdrawn.

Scissors covered by an item in Schedule 1 will continue to be covered by that item, for example:

- subitem 81(1) in Schedule 1* • surgical scissors are exempt under *subitem 81(1) in Schedule 1* as they are of a kind marketed principally as surgical instruments and are ordinarily used in hospitals or by medical practitioners; and
 - subitem 18(1) in Schedule 1* • any type of scissors used by a registered manufacturer mainly in manufacture related activities, such as scissors used by a clothing manufacturer, may be purchased free of tax under *subitem 18(1) in Schedule 1*.
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**Communication
of the Decision**

This determination has been made available for publication by the sales tax publishing houses and will be mailed directly to sellers of these goods that are registered as sales taxpayers with the ATO.

Commissioner of Taxation

23 August 1995

FOI Index Detail: I 1014524

Related Determinations:

Related Rulings: The determination withdraws ST2389

Subject Ref: Classification of scissors

Legislative Ref: Subitems 1(b), 1(d) and 1(s) in Schedule 2 and subitems 18(1) and 81(1) in Schedule 1 to the Sales Tax (Exemptions and Classifications) Act 1992.

Case Ref:

File Ref: NAT 95/6303-2

ISSN 1323 - 7209