

STD 96/7 - Title: Classification of powerboards



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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: Classification of powerboards

Background

This determination arises from a recent appeal to the Federal Court against a decision by the Administrative Appeals Tribunal (AAT) concerning the classification of certain powerboards.

Both parties appealed against aspects of the AAT decision and the Federal Court concluded that the AAT decision did not involve an error in law. As a result, both appeals were dismissed and the AAT reasoning on the classification of the powerboards is relevant.

This determination examines the AAT decision and provides guidance on the categories of powerboards that are now exempt from sales tax as *adaptors*. This determination also alters the previous public ruling on powerboards which is contained in Sales Tax Bulletin 19.

Issue

What powerboards are exempt from sales tax as *adaptors*?

Decision

1. Switched and unswitched powerboards having any or all of the following features:

- over-current protection;
- safety shutters to protect each outlet;
- power indicator light;
- flexible cord not exceeding 2 metres

are exempt as *adaptors*.

The presence of a safety switch (built into the body of the powerboard or plug) that would be exempt under *subitem 43(3)(c)* will not affect the exempt classification of the powerboards mentioned above.

A flexible cord in excess of 2 metres may impact on the essential character of the product in question. Distributors of powerboards having flexible cords exceeding 2 metres should seek private rulings on those particular products.

2. Adaptors with surge protection included as a minor additional feature retain their essential character as adaptors and are exempt. Products that are specifically designed, marketed and priced as surge protection products, for example, surge guards, surge filters, are not exempt as adaptors. If a distributor is in any doubt in relation to the classification of a particular product with surge protection they should seek a private ruling.

3. Powerboards with both power surge protection and RFI noise filter to eliminate electrical interference and under voltage protection powerboards (known as brown out/blackout protectors) are not *adaptors*, and are taxable at the Schedule 4 rate.

Where tax has been paid on the powerboards ruled above as exempt as *adaptors* it will have been overpaid within the meaning of the credit provisions. Entitlement to a credit is subject to a claimant satisfying the normal requirements of the relevant credit provisions.

Date of effect

This determination is effective immediately. It replaces any previous private rulings to the extent that they are inconsistent with this determination.

Reasons

We have based our decision on the following legislative provisions:

Subitems 43(3)(a) and 43(3)(c) in Schedule 1 to the Sales Tax (Exemptions & Classifications) Act 1992

Subitem 43(3)(a) in Schedule 1 to the Sales Tax (Exemptions & Classifications) Act 1992 provides exemption from sales tax for adaptors, if they are of a kind ordinarily used in connection with fixed electrical installations in consumers' premises.

The term *adaptor* is not defined in the law. In accordance with principles of statutory interpretation, the term bears its ordinary meaning unless there is a special technical or trade meaning.

Sales Tax Bulletin 19 sets out the ATO view on the classification of electrical fittings and accessories. That bulletin adopted a technical definition of *adaptor* that did not extend to powerboards which typically have more than 2 outlets. As a result, powerboards were considered to be outside the scope of the exemption provided by *subitem 43(3)(a) in Schedule 1*.

and case law:

Case 40/94 94 ATC 372; Case 9638 (1994) 29 ATR 1023; FC of T v. Kambrook Distributing Pty Ltd 96 ATC 4256; (1996) 32 ATR 116

This view was challenged in the AAT. After considering the testimony of expert witnesses and referring to dictionary definitions, the AAT concluded that the term *adaptors* took its ordinary meaning, and that meaning was broad enough to include a device which enables connection of multiple plugs to one electrical outlet, such as a powerboard. Some powerboards were held to have the essential character of *adaptors* and classifiable as such for sales tax purposes. They comprised unswitched powerboards with over-current protection, and switched powerboards with over-current protection, safety shutters to protect each outlet and a power indicator light. Over-current protection which is required by law was not considered to alter the essential character of the powerboards as *adaptors*.

However the AAT concluded that additional features such as power surge protection and noise control impact on the essential character of a powerboard. Powerboards with these features would be primarily purchased for protection from power surges and noise interference, and their ability to provide facilities as an *adaptor* is a secondary characteristic.

Both parties appealed to the Federal Court against the AAT decision, however the Federal Court declared that the AAT had made no error in law and that the decision reached was one that was reasonably open to it on the facts of the case. The appeals were both dismissed.

Prior to the outcome of the appeal, the ATO had maintained the classification of powerboards as set out in Bulletin 19. However, this determination will enable other taxpayers to classify powerboards using the same reasoning applied by the AAT and, subject to the requirements of the relevant credit provisions, claim a credit for sales tax overpaid.

**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 taxpayers with the ATO.

Commissioner of Taxation

19 June 1996

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Related Determinations:		
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Legislative Ref:	Sales Tax (Exemptions & Classifications) Act 1992: Subitem 43(3)(a) and 43(3)(c) in Schedule 1	
Case Ref:	Case 40/94 94 ATC 372; Case 9638 (1994) 29 ATR 1023; FC of T v. Kambrook Distributing Pty Ltd 96 ATC 4256; (1996) 32 ATR 116	
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