

STD 97/5 - Classification of digital cameras and still video cameras

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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 digital cameras and still video cameras**

Background

Digital cameras and still video cameras are hand held, point and shoot cameras which capture and store images on computer memory instead of on film. The image is formed by means of a lens which is aimed and focused in a similar way to cameras which use photosensitive film.

Digital cameras and still video cameras allow the user to bypass photosensitive film processing by displaying the images immediately when the goods are connected to a computer or television receiver. Digital cameras store images on computer chips while still video cameras store the images on video disc.

Both types of camera enable images to be downloaded to a computer by means of a connecting cable and viewed, manipulated or printed as required, rather than developed or printed in the traditional way.

Digital cameras and still video cameras have the features of a camera including a focussing mechanism, lens, shutter, frame advance, exposure system, view finder and flash. They are marketed, used and commercially acknowledged as cameras.

This determination sets out the Australian Taxation Office (ATO) view on the sales tax classification of digital cameras and still video cameras.

Issue

What is the sales tax classification of digital cameras and still video cameras?

Decision

1. Digital cameras and still video cameras are covered by subitem 9(1) in Schedule 5 to the *Sales Tax (Exemptions and Classifications) Act 1992* (ST(E&C) Act).

2. Still video cameras that record images on video disc are also covered by Item 12 in Schedule 5 to the ST(E&C) Act.

Note: Goods covered by Schedule 5 are currently subject to sales tax at the rate of 32%.

Date of effect

This determination confirms previous advice in private rulings and is effective immediately.

Reasons

We have based our decision on the following legislative provisions:

Items 9 & 12, in Schedule 5 to the ST(E & C) Act

Subitem 9(1) in Schedule 5 to the ST(E&C) Act covers:

'(1) *Cameras (including cinematograph and stereo cameras), automatic photo booths and other equipment for taking photographs ...*'

Item 12 in Schedule 5 covers:

'(1) *Appliances of a kind ordinarily used for one or more sound/vision functions ...*'

The term '*Sound/vision function*' is defined in subitem 12(5) to include '*recording on video tapes or video discs*'.

and case law:

FC of T v. Thomson Australian Holdings & Ors 89 ATC 4696; (1989) 20 ATR 983

In determining whether particular goods are 'cameras', it is important to look at their *essential character*. In *FC of T v. Thomson Australia Holdings Pty Limited & Ors* 89 ATC 4696; (1989) 20 ATR 983 Bowen CJ reaffirmed on appeal the previous opinions of the trial judge, Davies J, when he said:

'...the task of the Court is to determine the essential character of the goods, what essentially the goods are, not some characteristic the goods might have. Essential character derives from the basic nature of the goods, from what they are, though composition, function and other factors necessarily play a part.'

The features possessed by digital cameras and still video cameras, the way in which they operate to capture images and the manner in which they are marketed, used and referred to commercially, all lead to the conclusion that the essential character of these goods might properly be considered to be that of a camera.

The use of the word *including* in subitem 9(1) indicates that the list of types of camera shown as covered by the subitem is not an exhaustive list. Neither do the goods listed (cameras, cinematograph cameras, stereo cameras and automatic photo booths) form a common genus of goods, since their functions vary. In particular, not all these goods take photographs. For example, the subitem includes cinematograph cameras which take motion pictures.

The word *cameras* in subitem 9(1) stands on its own and is not qualified by the words *for taking photographs*. The qualification applies to the general words *other equipment*.

Digital cameras and still video cameras do not fall within the general words 'other equipment for taking photographs' since these cameras do not take 'photographs' within the ordinary meaning of that word.

In addition to being covered by subitem 9(1), still video cameras that record images on video disc are also appliances covered by Item 12 in Schedule 5 to the ST(E&C) Act. The definition of *sound/vision function* in the item specifically includes *recording on video tapes or video discs*.

Communication of the Decision

This determination has been made available for publication by the sales tax publishing houses and will be provided to interested people on request.

Commissioner of Taxation
6 August 1997

Related Determinations:

Related Rulings:

Subject Ref: cameras; digital cameras; still video cameras

Legislative Ref: Sales Tax (Exemptions and Classifications) Act 1992 Schedule 5, Items 9 and 12; Schedule 5, subitems 9(1) and 12(5)

Case Ref: FC of T v. Thomson Australian Holdings Pty Ltd & Ors 89 ATC 4696; (1989) 20 ATR 983; FC of T v. Sherwood Overseas Pty Ltd (1985) 75 FLR 474; (1985) 16 ATR 473; 85 ATC 4267

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