


# ***ST 2107 - SALES TAX: RETREADED TYRES***

 This cover sheet is provided for information only. It does not form part of *ST 2107 - SALES TAX: RETREADED TYRES*

This document has been Withdrawn.

There is a Withdrawal notice for this document.

TAXATION RULING NO. ST 2107

SALES TAX: RETREADED TYRES

F.O.I. EMBARGO: May be released

REF

\*\*\* NOTE: THIS RULING HAS BEEN MODIFIED BY ST 2336

H.O. REF: 84/5345-4

DATE OF EFFECT: 21 Dec 1984

B.O. REF:

DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1132087	RETREADED TYRES MANUFACTURE OF GOODS	SALES TAX ASSESSMENT ACT (NO. 1) SUB-SECTIONS 3(1), 26(1) SALES TAX REGULATION 48(1)

OTHER RULINGS ON TOPIC: ST 2026, ST 2030 and ST 2087

PREAMBLE

Taxation Ruling No. ST 2026 notified a decision that the retreading of tyres constituted manufacture and that retreaded tyres were not excluded from the definition of goods in sub-section 3(1) of Sales Tax Assessment Act (No. 1). The decision was effective from 1 June 1983.

2. Taxation Ruling No. ST 2087 advised that on 28 September 1984 Beaumont J. of the Federal Court of Australia ruled that the process of retreading tyres is merely a process of repair and that the retreaded tyres in issue are not liable to sales tax in the manner contended for by this office.

3. The Commissioner appealed to the Full Court of the Federal Court of Australia against Mr Justice Beaumont's decision. On 21 December 1984 the Full Court handed down its judgment unanimously upholding Mr Justice Beaumont's decision. The Commissioner has decided to accept the decision. The decision of the Federal Court restores the sales tax position, in relation to retreaded tyres, to that which existed prior to 1 June 1983.

RULING

4. Sales tax liability on retreaded tyres will be determined in accordance with this Ruling.

Local Casings

5. Where a retreader retreads tyre casings which have previously gone into use or consumption in Australia, i.e. local casings, sales tax is payable on machinery, implements and apparatus used in retreading operations and on all taxable materials used in retreading tyres, e.g. rubber, solution, etc. This basis of liability will apply whether the casing is owned by the retreader or is supplied by a customer, or whether the

retreaded tyre is for sale by wholesale or retail.

#### Imported Casings

6. Imported casings which have not previously gone into use or consumption in Australia are goods for sales tax purposes and are liable to sales tax. The tax liability of casings imported into Australia and retreaded will vary depending on whether the retreaded tyres are for sale by retail or wholesale. In either situation sales tax is payable on machinery, implements and apparatus used in the retreading operations.

#### Casings Imported for Retreading and Sale by Retail

7. Where casings are imported for retreading and sale by retail, sales tax will be payable at the time of importation of the casings and on the purchase of materials and equipment used in the retreading operations. No further tax becomes payable when the retreaded tyre is sold by retail.

8. There may be some situations where casings imported for retreading and sale by retail are in fact sold by wholesale. The sale value of retreaded tyres sold in these circumstances is the wholesale selling price. Rebates are allowable under paragraphs 48(1)(a) and (c) of the Sales Tax Regulations in respect of sales tax paid on casings at the time of importation and on tax paid materials used in the retreading process.

#### Casings Imported for Retreading and Sale by Wholesale

9. Where casings are imported for retreading and sale by wholesale, sales tax is payable on the wholesale selling price of the retreaded tyre. A person who imports tyre casings for retreading and sale exclusively or principally by wholesale is required to be registered for sale tax purposes and is required by paragraph 12(1)(a) of the Sales Tax Regulations to quote the certificate of registration on the importation of casings. In the ordinary course of events there will not be any sales tax paid on importation of casings.

10. There is no provision in the sales tax law to enable a person who imports casings for retreading and sale by wholesale to quote a certificate of registration for the purchase of materials used in the retreading process, e.g. rubber and solution. These materials cannot be said to be acquired for sale by wholesale because they lose their identity in the retreading process. Double taxation in respect of these materials is avoided by allowing a rebate under paragraph 48(1)(c) of the Sales Tax Regulations of the tax paid on the materials at time of purchase.

#### Refunds

11. Refunds of sales tax paid on retreaded tyres during the period the retreading process was ruled to be manufacture, will be made where it is established that the requirements governing refunds of sales tax are fulfilled. The sales tax law permits refunds of sales tax where the tax has not been passed on or, if it has been passed on, where it is refunded to the person who has ultimately borne the tax.

12. Where the end user has dealt direct with a retreader, the retreader will be required to refund the tax to the end user to be eligible for a refund. Where a retreader has sold retreaded tyres to a retailer who has sold the tyres to a consumer, the sales tax must be refunded through the retreader and retailer to the consumer for a refund of tax to be payable.

13. Having regard to the terms of the sales tax law and to the contents of Taxation Ruling No. ST 2026 and 2030 the amount of any refund will be the amount paid to the Taxation Office in respect of the sales tax on the retreaded tyres which are the subject of a claim for refund. Refunds will not be reduced to take into account any amount of sales tax that would otherwise have been payable on materials and equipment including imported casings purchased free of tax under quotation of certificate. Nor will retreaders who have acted in accordance with the abovementioned Taxation Rulings and quoted certificates of registration on the purchase of retreading equipment and materials and accounted for the sales tax on retreaded tyres have any separate liability for sales tax on materials and equipment used in retreading tyres during the period that the retreading of tyres was ruled to be manufacture.

#### OTHER RULINGS

14. Taxation Rulings Nos ST 2026, 2030 and 2087 are withdrawn.

COMMISSIONER OF TAXATION  
14 January 1985

<