

ST 2131 - SALES TAX MOTOR VEHICLE PARTS AND ACCESSORIES

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TAXATION RULING NO. ST 2131

SALES TAX: MOTOR VEHICLE PARTS AND ACCESSORIES

F.O.I. EMBARGO: May be Released

REF H.O. REF: 82/5401-0 DATE OF EFFECT: Immediate

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1187173	SUPPLY AND FITTING OF CAR PARTS AND ACCESSORIES. CAR PARTS - APPLICATION TO OWN USE	SALES TAX ASSESSMENT ACT (No.1) SECTION 3; SALES TAX ASSESSMENT ACT (Nos. 4, 6 & 8) SECTION 4.

OTHER RULINGS ON TOPIC

AUSTRALIAN SALES TAX - PARAGRAPHS 589, 590, 959, 961, 1139 and 1140

FACTS Motor vehicle spare parts and accessories may be fitted to motor vehicles in the following situations:-

- i) A trader, such as a glass merchant, may supply and fit windscreens to customers' vehicles directly for the customers.
- ii) Specialist repairers may supply and fit windscreens and other parts and accessories to customers' vehicles where, although the vehicles are forwarded to the repairers by panel beaters or service stations, the supply and fit contract is between the repairer and the customer.
- iii) Specialist repairers may supply and fit parts and accessories to vehicles owned and held by used car dealers as stock for sale.
- iv) Parts and accessories may be sold to used car dealers for fitting by the dealers to vehicles owned and held by them as stock for sale.
- v) Parts and accessories may be sold directly to customers to be fitted by the customers to their own vehicles.
- vi) Parts and accessories may be sold to panel beaters or used car dealers for supply and fitting by them to customers' vehicles.

RULING 2. The supply and fitting of motor vehicle parts and accessories in each of the situations (i) to (v) constitutes the sale of goods by retail rather than a wholesale sale. This will

be so whether the transaction involves the sale of goods or is a contract to which sub-section 3(4) of Sales Tax Assessment Act (No. 1) applies.

3. The sale is one by retail because in each instance the goods are sold by the supplier to the owner of the vehicle to which they are fitted. The parts or accessories are not being purchased for the purpose of reselling as such. In situations (iii) and (iv) the subsequent sale of the vehicle does not involve a separate sale of the new parts and accessories fitted to it. The new parts and accessories lose their separate identity when fitted to the vehicle. The sale of the parts to the dealer is regarded as a sale to an end user.

4. Should the supply and fitting of the parts or accessories be a contract to which sub-section 3(4) applies, the deemed sale is one by retail by virtue of excluding paragraph (f) of the definition of "sale of goods by wholesale" in sub-section 3(1) of the Act No. 1.

5. In situations (i), (ii), (iii) and (v) the sales tax liability would be met ordinarily by payment of tax on the purchase of the parts by the trader or specialist repairer as the case may be. In some cases the trader or specialist repairer may be registered and the parts may be supplied from a tax-free stock. Where this occurs tax will be payable on the price for which the goods are ordinarily sold by wholesale in circumstances comparable with the retail sale.

6. In situation (iv) it is accepted for sales tax purposes that the car dealer applies the parts and accessories to his own use when incorporating these parts or accessories in his used car stocks as part of a repair operation. Ordinarily, the used car dealer will pay tax at the time of purchase of parts and accessories for use in this manner and that will satisfy any sales tax liability. However, where the dealer also makes wholesale sales of parts and accessories and operates from a common tax-free stock, his liability for sales tax arises at the time the parts and accessories are incorporated into the used vehicles. The sale value on which sales tax is payable for parts and accessories dealt with in this manner is governed by sub-section 4(1A) of Act No. 6 or sub-section 4(1) of Acts Nos. 4 and 8, as appropriate. Under Acts Nos. 4 and 8 the sale value is the amount for which the goods were purchased. If the liability arises under Act No. 6 the sale value is the amount that would have been the sale value of the goods for the purposes of Act No. 5 if the dealer had not quoted his certificate. The Act 5 sale value is the amount which exceeds by 20% the sum of the customs value of the goods and the amount of customs duty payable, if any.

7. In situation (vi) the sale constitutes a sale of goods by wholesale either within the ordinary meaning of that expression or within paragraph (i) of the definition of "sale of goods by wholesale" in sub-section 3(1), i.e., to a person who buys them for resale.

8. This ruling amends the ruling contained in paragraphs 1139-1140 of Australian Sales Tax. It supersedes the ruling in paragraph 959 of Australian Sales Tax which is now withdrawn.

COMMISSIONER OF TAXATION
26 June 1985