

ST 2265 - SALES TAX : OMNIBUSES

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TAXATION RULING NO. ST 2265

SALES TAX : OMNIBUSES

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1209670	BUSES OMNIBUSES	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 119C, FIRST SCHEDULE

RULING Sub-item 119C(1) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act exempts from sales tax omnibuses providing seating accommodation for not less than twelve adult passengers for use exclusively or principally in the transport of passengers for reward.

2. Sub-item 119C(2) exempts chassis for the construction of omnibuses specified in sub-item 119C(1). There is no provision exempting parts for omnibuses covered by sub-item 119C(1). Parts for omnibuses are taxable at the general rate of 20%.

Meaning of "Omnibuses"

3. Not all vehicles with seating for twelve adult passengers are omnibuses for the purposes of sub-item 119C(1). The word "omnibus" does not have a legal meaning. Regard must be had to the ordinary meaning of the term. An omnibus is a vehicle that is designed for the carriage of passengers. The first omnibuses were developed from truck chassis. Ordinarily an omnibus is characterised by a long body, greater head room than other vehicles, usually an aisle and steps to board and alight from the vehicle. They are clearly distinguishable and have a different identity to other vehicles such as sedans, station wagons, panel vans and trucks.

4. Station wagons and panel vans do not qualify for exemption under sub-item 119C(1) even when they are manufactured with or converted to provide seating for twelve adult passengers. Other classes of vehicles, e.g. Kombi vans and similar vehicles, which in their standard form do not have the required seating capacity but have been converted to seat and are licensed to carry twelve adult passengers, may be accepted as omnibuses.

Seating Requirement

5. The requirement for exemption under sub-item 119C(1) that an omnibus must have seating for twelve adult passengers is exclusive of the driver's seat. The driver is not a passenger for this purpose.

6. Some buses are fitted out as school buses with child-size passenger seating. In determining whether these buses qualify for exemption under sub-item 119C(1) the seating capacity is measured by reference to the adult seating capacity not the number of child-size seats. A vehicle in a range which cannot be fitted with twelve adult passenger seats will not qualify for exemption where it is fitted with twelve or more child-size seats. On the other hand if a vehicle can be fitted to seat twelve adults it will qualify for exemption where it is fitted out with seating suitable only for children.

"Transport of passengers for reward"

7. In addition to the seating requirement omnibuses must be for use exclusively or principally in the transport of passengers for reward in order to qualify for exemption under sub-item 119C(1).

8. Item 119C was introduced into the sales tax law in 1961. In the Second Reading Speech the then Treasurer explained that the purpose of the item was to provide exemption for certain goods used by industries engaged in public transport services. In relation to omnibuses, the object was to place private operators conducting transport services for the public on a comparable footing with State-owned railways and bus services operated by State instrumentalities or other public authorities which were not liable to sales tax.

9. In the light of the purpose behind the introduction of item 119C and of its express wording it is considered that exemption under sub-item 119C(1) will be available only where there exists a proper commercial fare, fee or charge paid for the use of an omnibus. The following situations would result in exemption under sub-item 119C(1):-

- (i) scheduled bus runs, where passengers pay a predetermined fare;
- (ii) charter bus tours, including an arrangement where the charge covers accommodation as well as the tour;
- (iii) school bus services, where the children are not required to pay a fare but the bus owner is paid for providing the service;
- (iv) buses used to convey employees to a work site, where the employees are carried free of charge but the bus company is paid a contract price for providing the service;
- (v) buses hired out with a driver on charter work;
- (vi) buses hired out without a driver, e.g. on a "drive yourself" basis to individuals or groups or on a long term lease to a tourist or charter operator.

10. The following situations would not warrant exemption under sub-item 119C(1):-

- (i) courtesy buses operated by businesses (e.g. motor vehicle dealers) to transport customers to work free of charge or for a nominal charge;
- (ii) buses operated by hotels and other accommodation places to convey customers to and from airports or rail or bus centres or for general transport purposes without charge or for a nominal charge;
- (iii) buses operated by employers for the transport of employees free of charge or for a nominal charge;
- (iv) buses operated by tourist resorts to convey guests around the resort or on sight-seeing or other outings free of charge or for a nominal charge;
- (v) free or nominal cost buses provided by hotels, licensed clubs, etc. to transport customers home;
- (vi) buses used by sporting clubs to transport team members to and from games free of charge or at a nominal charge;
- (vii) bus services provided by licensed clubs to provide free or nominal cost transport to clients wishing to play poker machines, etc.;
- (viii) buses used by businesses to transport employees around premises, airports, etc. free of charge or for a nominal charge;
- (ix) free or nominal cost bus services provided by community service clubs.

11. There may be some situations in which buses for use for purposes specified in paragraph 10 will qualify for exemption from sales tax, i.e. when they are for use by an exempt organisation. Buses purchased by schools for transporting students, buses used by non-profit hospitals to transport patients and buses for use by public benevolent institutions are examples. Exemption in these circumstances flows from provisions exempting goods for use by specified classes of organisations, e.g. items 63 and 81 in the First Schedule, and apply regardless of the nature of the vehicle or its seating capacity.

COMMISSIONER OF TAXATION
30 June 1986