


ST 2280 - SALES TAX : RAILWAYS : INTERPRETATION OF ITEM 119B

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TAXATION RULING NO. ST 2280

SALES TAX : RAILWAYS : INTERPRETATION OF ITEM 119B

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1209035	RAILWAYS - PRIVATELY OPERATED	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEMS 77 & 119B, FIRST SCHEDULE

PREAMBLE Item 119B in the First Schedule to the Sales Tax (Exemptions and Classifications) Act provides exemption for goods for use (whether as goods or in some other form, but not as goods for sale) by a person exclusively in, or exclusively in connection with, the establishment, operation or maintenance by that person of a railway providing, primarily and principally for use by the public, a service for the transport of persons or goods (other than a service provided for, or in connection with, purposes of recreation, pleasure or amusement).

2. This office was recently asked to consider the scope of the exemption provided by item 119B, i.e. what is meant by the term "railway"? On one view, it may be said that exemption applies only to the railway track, platforms, sidings, signals and so on, i.e. the physical railway. An alternative view is that exemption applies to all goods used exclusively in connection with the establishment, operation or maintenance of railways, i.e. it extends beyond the actual railway to goods such as office equipment, stationery and motor vehicles provided that those goods are used exclusively in connection with the railway.

RULING 3. Item 119B was introduced into the sales tax law in 1961 to provide exemption for privately operated railways comparable to the exemption provided for public transport authorities under item 77. Item 77 provides exemption for goods for use (whether as goods or in some other form) by public transport authorities exclusively in, or exclusively in connection with, the establishment, conduct or maintenance of transport services.

4. When item 77 was introduced into the sales tax law it was the intention that exemption would apply to all goods purchased or imported by a public transport authority for use in connection with its transport services. This intention is reflected in a longstanding published ruling on page 244 of the publication "Sales Tax Exemptions and Classifications" which states that exemption applies to furniture, motor vehicles, overhead equipment, paint, power station machinery and stationery.

5. Item 119B is expressed in similar terms to item 77 and it is clear that the intention of the Parliament was that

persons operating private railways should be accorded a similar exemption to that applicable to public transport authorities. Item 119B is not restricted in its interpretation to apply only to the railway track, platforms, sidings, signals, etc. but has the wider interpretation applied to item 77.

6. Item 119B requires that the goods be used exclusively for the specified purposes for exemption to apply. If there is any other use then exemption will not apply. If, for example, an operator of a railway had other business interests and acquired an item of goods to service all his business interests including the operation of the railway, exemption under item 119B would not be available because the item was not used exclusively for the purposes of the railway. There may be cases where the use of goods for purposes not connected with the railway operations is so insignificant in relation to their use for railway purposes that it may be ignored in determining whether exemption under item 119B applies.

7. Item 119B is not restricted to a person who owns and operates a railway. It also applies to exempt equipment used by contractors in the maintenance of railways, e.g. track maintenance, and in the maintenance of railway maintenance equipment. The equipment has to be used exclusively for railway purposes to qualify for exemption under item 119B.

COMMISSIONER OF TAXATION
23 September 1986