

ST 2403 - SALES TAX : CONVERSION OF MOTOR VEHICLES TO LIMOUSINE

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TAXATION RULING NO. ST 2403

SALES TAX : CONVERSION OF MOTOR VEHICLES TO LIMOUSINE

F.O.I. EMBARGO: May be released

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I 1019758	CONVERSION AND BODY BUILDING OF MOTOR VEHICLES	SALES TAX ASSESSMENT ACT (No.1) SECTION 3

PREAMBLE This Ruling considers:

- a. whether the conversion of motor vehicles to stretch limousines is manufacture as defined in section 3 of Sales Tax Assessment Act (No. 1); and
 - b. whether the converted vehicles are goods as defined.
2. The definition of manufacture is not exhaustive. Besides its ordinary meaning the definition includes:
- (a) production; and
 - (b) the combination of parts or ingredients whereby an article or substance is formed that is commercially distinct from those parts or ingredients.
3. Under the sales tax law a liability to sales tax arises where goods as defined are manufactured. Goods includes commodities, but does not include-
- (a) goods which have, either through a process of retailing or otherwise, gone into use or consumption in Australia; or
 - (b) goods which are sold as second-hand goods and are manufactured exclusively or principally from goods which -
 - (i) have, whether alone or as parts of other goods, gone into use or consumption in Australia; and
 - (ii) in the opinion of the Commissioner, in their condition as parts of the goods so manufactured, retain their character as goods or as parts of goods which have gone into use or consumption in Australia.
4. Therefore, to have a sales tax liability on the conversion of sedan vehicles to stretch limousines the process has to constitute the manufacture of goods as defined.

FACTS 5. Stretch limousines are motor cars commonly designed to seat

8 or more passengers. They are normally produced by extending and modifying a conventional motor vehicle. The procedure includes dismantling the conventional vehicle; cutting it in half; extending the wheelbase; reassembling with additional components such as panels, seating and other optional accessories; trimming and repainting.

6. The conventional motor vehicles which form the basis of the stretch limousines are either purchased new or second hand by the converter or supplied by end users.

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7. The question of whether manufacture is involved is one of fact and degree. In the recent case of FC of T v Jax Tyres Pty Ltd 85 ATC 4001; 16 ATR 97, Sheppard J stated that the test to be applied in determining whether or not an article is manufactured is that formulated by Darling J. in McNicol v Pinch (1906) 2 KB 352, where his Lordship said at p361:

"The essence of making or of manufacturing is that what is made shall be a different thing from that out of which it is made."

He added that the test had been adopted by the High Court in FC of T v Jack Zinader Pty Ltd (1949) 78 CLR 336 and referred to the judgment of Williams J., who said:

"Work which could be fairly described as a mere repair or modification of the goods would not affect their original character. But once the work done causes the goods to lose this character, they become goods, within the meaning of the Act."

Sheppard J. also observed that:

"The application of these tests may sometimes be a difficult exercise. The question is one of fact and degree. An exercise of judgment is involved."

8. Whether or not motor body building activities constitute manufacture depends largely on a comparison between the nature of the vehicle at the commencement of the process and its nature at completion. The production of a stretch limousine involves extensive modifications which result in a substantial alteration to the nature of the original motor vehicle. While the end product is still a motor vehicle it is a different kind of vehicle. Various parts and raw materials are brought together by the application of skills to transform them into a new entity. The limousines are brought into existence as commercially distinct goods for sale. They are not otherwise available on the market.

9. It is considered that manufacture is involved in the conversion of sedan vehicles to stretch limousines.

10. The second issue is, where a used vehicle is obtained for conversion, whether the limousines are second-hand goods and therefore excluded from liability to sales tax. However, to be excluded, the goods must either have gone into use or consumption in Australia or be manufactured from second-hand goods and in the opinion of Commissioner retain that character when sold as second-hand goods.

11. The converted limousines are not goods in that form which have previously gone into use or consumption. As observed by Williams J in the Jack Zinader case (supra)

"The exception of goods which have either through a process of retailing or otherwise gone into use in Australia can only apply to particular goods whilst they remain such goods and not to what remains of such goods after they have been manufactured into goods which are different goods from their second hand components."

12. Stretch limousines produced predominantly or even exclusively from second-hand goods and subsequently sold are not accepted as retaining the character of the previous second-hand goods, i.e., the vehicle supplied for conversion. They are new goods produced by a manufacturing process and as such are liable to sales tax.

COMMISSIONER OF TAXATION
31 March 1988