

ST 2405 - SALES TAX : HAND TOOLS FOR USE IN AGRICULTURAL INDUSTRY

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TAXATION RULING NO. ST 2405

SALES TAX : HAND TOOLS FOR USE IN AGRICULTURAL INDUSTRY

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1019779	HAND TOOLS TOOLS AGRICULTURAL INDUSTRY MANUFACTURE AIDS TO MANUFACTURE	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEMS 113A & 113E, FIRST SCHEDULE

OTHER RULINGS ON TOPIC ST 2191

PREAMBLE The question has arisen of the extent to which hand tools including power hand tools such as portable electric saws, portable sanders, routers, grinders etc., qualify for exemption under item 113A. The purpose of this Ruling is to clarify the position.

2. Taxation Ruling No. ST 2191 indicated that activities such as the rearing of livestock, poultry, fish, etc. for sale, the maintenance of a dairy herd for the production of milk and cream for sale, the maintenance of hens for the production of meat and eggs for sale and the maintenance of bees for the production of honey for sale, the growing of crops, fruit, plants, herbs, flowers, etc. for sale are all manufacture for sales tax purposes.

3. Statements followed in the Ruling that hand tools will qualify for sales tax exemption under item 113A in the First Schedule to the Sales Tax (Exemptions and Classifications) Act as aids to manufacture when used in appropriate circumstances, i.e., when they are used primarily and principally by primary producers in the kinds of activities outlined in the above paragraph.

RULING 4. It is confirmed that certain agricultural activities are manufacturing activities because "manufacture" is defined in the sales tax law to include production. While primary producers are manufacturers, it is clear that the aids to manufacture provisions were specifically introduced into the law to prevent double taxation in the secondary industries. This is supported by the fact that Division I in the First Schedule to the Sales Tax (Exemptions and Classifications) Act already existed in the law at the time the aids to manufacture provisions were introduced to provide exemption to agricultural machinery, implements, equipment and materials generally. Also the terms of the exemptions are expressed in a manner which relate directly to the operations of secondary industries.

5. As the definition of aids to manufacture was introduced specifically for application to secondary industry it does not fit easily into operations conducted by primary producers. For example, the provisions in the aids to manufacture definition apply in most relevant parts to machinery, equipment, etc. for use in the processing or treatment of existing goods, i.e., raw materials and work-in-progress, and fashioning raw materials into other goods. In many situations in primary production goods do not result until something is severed from the land, harvested or bred, e.g., crops and fruit or the breeding of animals for sale. Because a considerable number of activities of primary producers do not involve the processing or treatment of goods, e.g., the ploughing of land, the planting of trees and crops, there will be many situations where hand tools will not be used by primary producers in circumstances that will qualify them for exemption from sales tax as aids to manufacture. Their use will not fit within the provisions contained in the aids to manufacture definition which determines exemption.

6. The undermentioned stages are the points where it is considered goods come into existence from primary production. Hand tools (including power driven hand tools) for use primarily and principally in activities from these points, therefore, may come within the scope of the aids to manufacture definition:-

- . the breeding (whether by artificial insemination or otherwise) and the rearing (including by force feeding, lot feeding, etc.) of livestock, poultry and fish, etc. for sale.
- . the acquisition of day-old chicks, calves, foals, etc. and their nurturing, feeding, fattening, etc. for sale.
- . the production of milk and cream for sale by dairy farmers.
- . the production of honey and other products for sale by apiarists.
- . the harvesting of crops such as wheat and lucerne.
- . the picking of fruit from trees by orchardists for sale.
- . the felling of trees in forests for timber.
- . the potting of plants, herbs, etc. by horticulturalists for sale.

7. Only hand tools used primarily and principally in activities occurring after goods come into existence (as indicated in paragraph 6 above) will qualify for exemption when they are used in accordance with the provisions of the aids to manufacture definition, e.g., in the actual processing or treatment of goods to be used in, wrought into or attached to goods to be manufactured.

8. As a general rule, however, handyman-type tools such as saws, hammers, mechanic's tools, bricklaying tools and carpentry tools purchased by primary producers would not be for use in situations where exemption as an aid to manufacture would apply. Nor would power driven hand tools such as portable electric saws, routers and sanders be used in circumstances where exemption would apply.

9. While exemption for hand tools for use by primary producers under the aids to manufacture provisions may be limited, it is again pointed out that a wide range of specific exemptions are provided in Division I of the Sales Tax (Exemptions and Classifications) Act for hand tools purchased and used by primary producers. Examples of such tools are blade shears,

fencing tools, harrows, hay forks, hoes, secateurs and pruning shears, pruning saws and pruning knives.

10. In addition, item 13(1), First Schedule provides a general exemption for machinery, implements and apparatus, not elsewhere included, for use in agricultural industry if, in the opinion of the Commissioner, they are goods of a kind used exclusively, or primarily and principally, in that industry. Some hand tools not specifically listed in Division I may qualify for exemption under this provision. e.g., cattle and stock knives having skinning, castrating or footrot blades. However, general purpose tools do not qualify for exemption under item 13(1).

CHAIN SAWS

11. The position of chain saws purchased for use by primary producers is dealt with separately in Taxation Ruling No. ST 2392.

REPAIR OF AGRICULTURAL MACHINERY AND IMPLEMENTS

12. Paragraph 11 of Taxation Ruling No. ST 2191 indicated that machinery, implements, apparatus and materials for use exclusively or primarily and principally in repairing and maintaining aids to manufacture, qualify for conditional exemption under item 113E, First Schedule. The Ruling then stated that goods for use with tractors, headers, ploughs, scarifiers, etc. qualified for exemption in appropriate circumstances.

13. As indicated in paragraph 5 of this Ruling, the aids to manufacture provisions apply generally to the production of goods and goods do not come into existence until something is severed or harvested from the land. It is now considered that ploughs, tractors and scarifiers do not generally satisfy the aids to manufacture provisions as their use is primarily and principally before 'goods' come into existence. However, in certain specific situations a tractor may satisfy the aids to manufacture provisions. An example of a situation where exemption could apply would be a tractor used by an orchardist primarily and principally to pull a trailer carrying harvested fruit from the orchard to a storage or packing shed on the property.

14. The guidelines set out in paragraph 11 of Taxation Ruling No. ST 2191 continue to apply in respect of headers, harvesters and the like, i.e., machinery, implements and apparatus used primarily and principally in the processing or treatment or transport of harvested primary products within manufacturing premises, i.e., the farming property.

15. Taxation Ruling No. ST 2191 therefore is modified as indicated in paragraph 13 above.

COMMISSIONER OF TAXATION

7 April 1988