


# ***ST 2459 - SALES TAX PICTURE FRAME MOULDINGS***

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TAXATION RULING NO. ST 2459

SALES TAX PICTURE FRAME MOULDINGS

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1012060	PICTURE FRAME MOULDINGS	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; SUBITEMS 86(1),90(b), FIRST SCHEDULE.

PREAMBLE

This Ruling considers the sales tax classification of picture frame mouldings which are made principally from metal, wood or timber and which may be finished with other products including paint, velvet, cloth, linen and ornamental plastic embossing.

2. Subitem 90(b) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act exempts from sales tax "Timber, including -.....(b) floorings, linings, mouldings, weatherboards, parquet blocks, plywood, veneers and sawdust."
3. Subitem 86(1) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act exempts from sales tax "Metal materials, namely, ingots, blooms, billets, slabs, bars, rods, plate, sheet (corrugated, flat or perforated), strip, circles, angles (including perforated angles), channel (including perforated channel), wire, mesh and rolled or extruded sections, made wholly of metal other than precious metal, whether or not covered with paint or a similar protective coating, but not including -"  
The exclusions are not relevant for present purposes.

FACTS

4. Picture frame mouldings made of timber or compositions of timber and other materials are designed so that a rebate/rabbit is grooved out of the timber to accommodate a backing board, picture, and glass (if required). This rebate distinguishes picture frame mouldings from builders' mouldings. Further, many of the mouldings have a resin covering over the wood to either enable a fancy design to be impressed into the moulding or to ensure that the paint covering will "take" on the moulding. Other wooden picture frame mouldings are covered with ornamental plastic embossing, or may have cloth, linen or velvet inserts. Some have ornamental patterns burnt under pressure into the picture frame moulding.
5. Metal picture frame mouldings are generally made from aluminium that has undergone an extrusion process and have a modern polished metal or coloured appearance. As with the

wooden mouldings, the aluminium mouldings are specifically designed with a rebate which can hold the article to be framed so that it will not fall out. Further, the extruded sections also have a channel which is designed to accommodate a corner bracket to hold the frame together.

6. Picture frame mouldings are generally sold to picture frame manufacturers, artists and the like. Some sales are made to retail stores who sell the frames to the public in kit form. Sales are also made to retail stores who provide a do-it-yourself picture frame service.

RULING Timber Picture Frame Mouldings

7. In deciding whether picture frame mouldings are exempt as "Timber, including-... mouldings ..." under subitem 90(b) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act some assistance can be gained from the decision in *Magna Stick Magnetic Signs Pty Limited v. Commissioner of Taxation* 89 ATC 500. In *Magna Stick* subitem 84(2) was in issue but the comments of Wilcox J are considered relevant in that subitem 84(2) uses a similar drafting technique to subitem 90(b). Both subitems open with general words followed by the word 'including'. Thus, in subitem 84(2) the item commences, "Builders hardware .... including ...." while subitem 90(b) reads "Timber, including ..." In relation to subitem 84(2) Wilcox J at page 5003 said:

"I do not agree that the term "Builders' hardware" is to be treated as no more than a compendious description of what follows, so that it is irrelevant whether particular goods are builders' hardware in ordinary parlance. If that had been the intention, there would have been no need to use the term at all. The description could have commenced with the words "goods of a kind ....". It is not as if item 84(2) was a definition provision, the draftsman wanting a simple term to avoid lengthy repetition. It is noteworthy that item 84(2) not only appears in a Division of the Schedule headed "Building Materials" but is surrounded by other items used in the construction of buildings. In my opinion the intention of the draftsman was to exempt only items which fulfill three criteria: firstly, that they answer the description "builders' hardware" in ordinary parlance,...."

8. In applying this approach to subitem 90(b) the first test that must be satisfied is that the goods must answer the description "Timber" in ordinary parlance. It is doubtful whether picture frame mouldings that are ornately carved, felt or linen covered, decorated, gilded, plastic laminated or even just designed with a rebate for the specific purpose of being used as a picture frame moulding would continue to answer the description "Timber" which is defined in the Shorter Oxford English Dictionary as "wood used for the building of houses, ships etc., or for the use of the carpenter, joiner, or other artisan; wood in general as a material". On the other hand 'moulding' is defined as "an ornamental variety of contour given to stone-, wood-, a metal-work, effected by means of carving or the application of pieces in relief." In relation to picture frames, the term "moulding" more specifically means "shaped material in the form of a strip, used for supporting pictures" (The Macquarie Dictionary). It would seem then that picture frame mouldings do not answer the description "Timber" in

ordinary parlance nor do they meet the general description of "mouldings".

9. A further comment by Wilcox J in *Magna Stick* that "It is noteworthy that item 84(2) not only appears in a division of the Schedule headed "Building Materials" but is surrounded by other items used in the construction of buildings" applies equally to subitem 90(b). Subitem 90(b) appears in the same Division and is also surrounded by other items used in the construction of buildings. The implication is that it was the intention of Parliament to only exempt goods used in the construction of buildings and not goods used in furnishing and equipping the household.

10. Another consideration in determining whether picture frame mouldings are exempt under subitem 90(b) in the First Schedule are the general rules of statutory interpretation followed by the Courts. The *noscitur a sociis* rule (the meaning of a word can be gathered from its context) has particular application in this instance. The word 'moulding' in the context of subitem 90(b) is used in the architectural or building sense. Flooring, linings, mouldings, weatherboards, parquet blocks, plywood, veneers and sawdust are all building materials. As picture frame mouldings are designed specifically for the framing of pictures and are not building materials, they are distinguishable from mouldings considered to be of the kind covered by subitem 90(b).

11. The commonly accepted meaning of timber mouldings when considered in the context of subitem 90(b) is that of timber mouldings used in the building industry. Timber picture frame mouldings or picture frame mouldings composed of timber and other products are not exempt under subitem 90(b). They are taxable at the general rate of 20%.

#### Metal Picture Frame Mouldings

12. To be exempt under subitem 86(1), metal picture frame mouldings need to be characterised as "Metal materials, namely, extruded sections". In *DFC of T v. Thompson Publications (Aust.) Pty Ltd* 79 ATC 4296 at 4306 Waddell J applied what may be called a 'characterisation test' in determining that certain publications were not 'advertising matter'. He stated "In my opinion the product items should not be regarded as 'advertising matter' having regard to their character as viewed objectively and having regard to the evidence relevant to their true nature and to the circumstances in which they came to be published".

13. A similar test should be applied to metal picture frame mouldings. Their character as viewed objectively is that of picture frame mouldings and not metal materials. The extruded goods are not for general purpose use as is the case with other metal materials. They are specifically extruded as picture frame mouldings and they are intended to be used as such. They have an identity separate from that of a metal material.

14. Metal picture frame mouldings even though made by an extrusion process, are not covered by subitem 86(1) in the First Schedule and are taxable at the general rate of 20%.

Kits

15. Wooden or metal picture frame mouldings sold in kit form will be taxable in accordance with Taxation Ruling No. ST 2240.

16. The published exempt ruling for "picture frame moulding which is merely dressed timber with one groove, and embossed picture frame moulding (wooden)" which appears at p. 435 of the Sales Tax Exemptions and Classifications publication is withdrawn.

17. As this Ruling will involve a change of existing interpretation it will come into effect from 1 July 1990.

COMMISSIONER OF TAXATION

5 April 1990