

# ***ST 2460 - SALES TAX IMPORTED UNSOLICITED GIFTS***

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TAXATION RULING NO. ST 2460

SALES TAX IMPORTED UNSOLICITED GIFTS

F.O.I. EMBARGO: May be released

REF N.O. REF: 90/3226-6 DATE OF EFFECT: Immediate

B.O. REF: ST/CAN/RUL 1 DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1011914	IMPORTED UNSOLICITED GIFTS	SALES TAX ASSESSMENT ACT (No.5); SECTION 5 SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 145, FIRST SCHEDULE.

PREAMBLE The scheme of the sales tax law in relation to imported goods entered for home consumption in Australia is to impose tax on all goods imported into Australia for the first time, unless they are specifically exempt from tax.

2. Before amendments made in May 1985 to Sales Tax Assessment Act (No.5) 1930, it was not possible to determine in all situations who was regarded as the importer of goods under the law. Where goods were sent from overseas to persons in Australia without their prior knowledge, e.g., as an unsolicited gift, it was not possible to collect sales tax on the goods. It was accepted on advice received from the Crown Solicitor that the recipient of goods in those circumstances could not be said to have imported the goods.

3. The insertion of a definition of "owner", in Sales Tax Assessment Act (No.5) 1930, in the same terms as the definition found in the Customs Act 1901 means there is now always a person liable to pay tax on imported goods. The definition of "owner" in relation to goods, includes "any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of, or beneficially interested in, or having any control of, or power of disposition over, the goods". Any previous inability to collect tax on unsolicited gifts has been removed.

RULING 4. Sales tax is payable on imported goods, including unsolicited gifts, unless the goods are covered by an exemption item in the First Schedule to the Sales Tax (Exemptions and Classifications) Act 1935. For example, gifts of clothes and footwear for human wear are exempt under Item 120, First Schedule, while books are generally exempt under Item 51, First Schedule.

5. Sales tax exemption is available under sub-item 145(a), First Schedule, for imported goods the value of which is insubstantial. A limited range of imported unsolicited gifts may fall within the scope of this sub-item. This exemption is tied to and dependent upon paragraph (a) or (b) of item 32 in Part II

of Schedule 4 to the Customs Tariff Act 1987. Applying under a by-law made under item 32, customs charges are waived on imported goods such as on imported unsolicited gifts of a non-recurring nature where the value of the goods does not exceed \$200. These goods would then qualify for exemption from sales tax under sub-item 145(a).

6. This Ruling comes into effect immediately. It supersedes Taxation Ruling No. ST 2235.

COMMISSIONER OF TAXATION  
10 May 1990