

# ***STNS 3004 - SALES TAX ITEMS 65 AND 65A: GOODS FOR USE IN CHURCHES AND CHURCH SERVICES AND ARTICLES FOR USE IN RELIGIOUS DEVOTION***



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TAXATION RULING NO. ST NS3004

- SALES TAX ITEMS 65 AND 65A: GOODS FOR USE IN CHURCHES  
AND CHURCH SERVICES AND ARTICLES FOR USE IN RELIGIOUS  
DEVOTION

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REFERENCE NO: SUBJECT REFS: LEGISLATIVE REFS:  
I 1012428 EXEMPTIONS SALES TAX (EXEMPTIONS  
GOODS FOR USE AND CLASSIFICATIONS)  
CHURCH SERVICES ACT; ITEMS 65 AND 65A;  
RELIGIOUS DEVOTION FIRST SCHEDULE

OTHER RULINGS ON TOPIC: ST 2313; ST 2442

PREAMBLE 1.1 The sales tax legislation does not provide a general exemption for goods purchased by churches and religious organizations. However, items 65 and 65A in the First Schedule to the Sales Tax (Exemptions and Classifications) Act, 1935 ("Exemptions and Classifications Act") provide a limited exemption from sales tax for certain goods used in a religious context.

1.2 This Ruling is designed to be a guide to the application of items 65 and 65A. An index of topics covered in this Ruling is attached at Appendix A.

THE LEGISLATION

2.1 Item 65 exempts:

'Equipment for use in churches and church services and articles for use in religious devotion, viz.:-

- (1) Furniture, furnishings, ornaments, vestments and other articles for use for the purposes of church services
- (2) All articles for use in religious devotion except any article of a kind which is ordinarily and primarily used for purposes of a non-religious character'.

2.2 Item 65A exempts:

'Wine for use in church services'.

RULING 2.3 Item 65 consists of an introduction followed by two subitems, which in practice provide an exhaustive statement of the goods covered by the item. (See D.C. (Vic) of T. v. Academy Plastics Pty Ltd, High Court, 26 March 1956, (unreported) and Polaroid Australia Pty Ltd v. D.F.C. of T. 71 ATC 4249.)

2.4 The key words and phrases used in items 65 and 65A are not defined in the sales tax legislation. Therefore, these terms are given their ordinary or commonly accepted meaning.

Subitem 65(1)

2.5 Subitem 65(1) provides exemption for 'Furniture, furnishings, ornaments, vestments and other articles for use for the purposes of church services'.

2.6 Exemption is available for the types of goods listed provided they are for use for the purposes of church services. There is no additional requirement that the goods must be religious in character, nor are there any other factors which must be satisfied before exemption will be allowed.

2.7 The term 'furnishings' includes fittings and fixed articles of furniture. Accordingly, carpet, curtains and fixed altars and pews will qualify for exemption as furnishings.

2.8 'Ornaments' refers to decorative articles and articles necessary for worship. Candlesticks, candelabra, lamps, statues, sacred vessels and framed religious portraits will be exempt provided they are for use for the purposes of church services.

2.9 'Vestments' refers to garments and articles of clothing for use for the purposes of church services.

2.10 The words 'other articles' provide exemption for goods that may not fit into the categories already mentioned. Some common examples of goods that will qualify for exemption are:

- (i) Pianos, church organs, music stands and band instruments for use in religious services.
- (ii) Slide and movie projectors for use in screening religious films and pictures in a church during services of worship.
- (iii) Blank recording tapes, cassette decks and other sound equipment for use in:
  - (a) recording actual church services (or a part thereof, such as a sermon) so as to provide persons in remote localities the opportunity of listening to church services, or
  - (b) recording or playing music, etc., for use specifically during church services.

For Use

2.11 Exemption is provided under subitem 65(1) provided the goods are for use for the purposes of church services.

2.12 The goods need not be used solely for those purposes. In light of the High Court decision in D.C. of T. v. Stewart 84 ATC 4146, goods will be 'for use' if it is anticipated that they will be used for the purposes of church services:

- (1) to a significant degree; and
- (2) substantially in extent and time so as to give a character to the goods.

## Church Services

2.13 'Church services' are:

- (1) Religious ceremonies of public worship organized according to form and order, and
- (2) Religious services involving rituals or series of words, for example, marriages and baptisms.

2.14 These services can be conducted by any religion. The term religion is wide enough to cover practices such as scientology (refer decision of the High Court in the Church of the New Faith v. Commissioner of Payroll Tax (Vic) 83 ATC 4652 in which the basis of what constitutes a religion was discussed).

2.15 The interpretation of 'church services' is not however wide enough to cover general meetings of church members such as conferences, Fellowship meetings, Youth meetings, Leadership meetings, Bible study classes or other general gatherings of church members, even though such meetings may commence and conclude with prayers, hymns or other religious exercises.

2.16 Although most services may be conducted within the church building, there may be occasions when religious services are conducted elsewhere. For example, the church grounds or a community hall may be used. Similarly, school chapels may be the setting for church services. Goods for use for the purposes of these services will qualify for exemption provided they are used significantly or appreciably in this way.

2.17 Some funeral services conducted in funeral parlour chapels may be religious in nature and, therefore, may fall within the ordinary meaning of church services. Where the funeral service conducted in a funeral parlor chapel can be characterized as a religious service involving a ritual or series of words, goods for use appreciably and substantially for those purposes will qualify for exemption under subitem 65(1).

2.18 Goods that are not actually used in, but are merely incidental to the conduct of church services, will not qualify for exemption under subitem 65(1). Some common examples of these goods are heating and cooling equipment, floodlights for buildings, lights for driveways and ground maintenance equipment (including lawnmowers, hoses etc.). For exemption to apply, goods must be for use directly in church services.

### Subitem 65(2)

2.19 Subitem 65(2) provides exemption for:

'All articles for use in religious devotion except any article of a kind which is ordinarily and primarily used for purposes of a non-religious character'.

2.20 To qualify for exemption from sales tax under subitem 65(2), articles must be:

- . for use 'significantly and substantially', (as described in paragraph 2.12) in religious devotion,

- . for use directly in religious devotion, and
- . recognised as a member of a class of goods inherently religious in nature, quality and adaptation (rather than being goods ordinarily and primarily used for purposes of a non-religious character).

#### Religious Devotion

2.21 'Religious devotion' may include acts which express the belief, worship or observance of a religion or the worship of a supernatural Being, Thing or Principle.

2.22 The term encompasses not only formal religious observances in a church or other place of worship, but also extends to acts of religious devotion undertaken by a person in the practice of his or her religion.

2.23 Articles which are religious in character and which are of the kind ordinarily used by persons for the purpose of religious devotion include religious medallions, statues, rosary beads, crucifixes, religious texts, religious calendars and prayer books. These goods are inherently religious in character and will qualify for exemption under subitem 65(2) when for use in religious devotion.

2.24 Difficulties may arise when considering the classification of religious medallions. Where religious medallions are attached permanently, that is, to an endless chain necklet being one continuous chain linked without a clasp, the entire article will qualify for exemption under the provisions of subitem 65(2). However, where the medallions are easily removed from the chain necklet, that is, they are attached by jump ring or bolt ring clasps, the medallion and chain necklet are two distinct articles. The articles are classified separately for sales tax even when sold as one article. The religious medallion will qualify for exemption under subitem 65(2); the chain, classified separately, is taxable at the rate of 30% (see item 1 in the Second Schedule to the Exemptions and Classifications Act).

2.25 Articles which are of a kind ordinarily used for non-religious purposes do not qualify for exemption under subitem 65(2) even though they may be for use in religious devotion. An example of a taxable article would be a cassette player used to play religious tapes other than as part of a church service.

#### Examples of the Effect of Item 65

##### Printed Matter & Church Publications

2.26 Much of the printed matter used by a church will be exempt from sales tax. Exemption for such printed matter generally falls into two categories:

- (i) Goods which gain exemption under the general printed matter provisions, set out in item 51 of the First Schedule to the Exemptions and Classifications Act. Church bulletins and newsletters will in most cases gain exemption under this provision. For further details see Sales Tax Ruling ST (NS) 3001 on printed matter.

- (ii) Printed matter which is commonly used for the purposes of church services, and therefore qualifies for exemption under subitem 65(1). Examples include hymn sheets, orders of services, weekly free will offering envelopes, communicant cards, plans of services, confirmation cards, baptismal cards, and Holy Mass instructional cards.

2.27 Generally, other printed matter used by a church will be taxable. Examples of taxable printed matter are stationery and information cards for use in a card index of church members. A church must pay sales tax at the time of purchase of such items.

#### Duplicating

2.28 From time to time churches may produce their own copies of hymn sheets, plans of services, newsletters etc. for distribution to members of the congregation. However, a church which duplicates printed material solely for its own use is not required to register for sales tax purposes. Therefore, churches are not entitled to purchase 'raw materials' and 'aids to manufacture' free of sales tax. Consequently, a church must pay sales tax on the purchase of duplicating paper, typewriters, stencils and duplicating machines irrespective of the nature of the printed matter produced.

#### Video Tapes, Films and Sound Recordings

2.29 Video tapes, films and sound recordings acquired for use for the purposes of church services will qualify for exemption under subitem 65(1).

2.30 However, for exemption to apply under subitem 65(2) the goods must be for use directly in religious devotion and contain recorded material which is inherently religious in nature, quality and adaptation, for example, readings of the Bible.

2.31 Where video tapes, etc. are of a general nature and used for their entertainment or information value (e.g. cartoons, child guidance, family and marital topics and scientific topics), or are of a kind that would not ordinarily be used for religious purposes, then exemption under subitem 65(2) does not apply. Similarly, historical and documentary films about religious events or prominent religious persons and recordings of popular songs with religious themes, for example, Christmas carols, do not qualify for exemption.

2.32 Video tapes, films and sound recordings that do not qualify for exemption under either subitem 65(1) or 65(2) will attract sales tax at the general rate which is currently 20%.

#### Motor Vehicles

2.33 Motor vehicles purchased by churches or ministers of religion for use in general church work will not qualify for exemption under the provisions of item 65.

#### Exemption under Item 65A

2.34 All wine, whether Australian made or imported, and

whether non-alcoholic or otherwise will qualify for exemption under item 65A when for use in church services.

#### Claiming Exemption

2.35 Persons claiming exemption from sales tax on behalf of churches should provide a written statement to the supplier at the time of purchase. This written statement, commonly referred to as an exemption certificate, may be hand-written, typed or printed, or may be incorporated into an order form. It should be in the following format:

##### SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT

To the Commissioner of Taxation  
and the Commonwealth of Australia

I hereby certify that

the.....

(DESCRIPTION OF

GOODS)

purchased from ..... on

.....

(NAME OF VENDOR)

(DATE)

is/are for use

.....

(STATE NATURE OF USE)

and exemption is accordingly claimed under item 65/65A  
of the First Schedule to the above Act.

Signature :

.....

Name of Church :

.....

(if applicable)  
Name (Block Letters):

.....

Address :

.....

.....

Date :

.....

2.36 The vendor accepts, and keeps for record purposes, the certificate claiming exemption and then sells the goods less the sales tax component.

2.37 If the vendor is not registered for sales tax, and has paid tax on the goods, he may claim either a refund or a rebate of the tax involved from his supplier. The vendor gives his supplier a certificate making a declaration about the exempt sale which is similar to the certificate supplied by the organization. The certificate is as follows:

##### SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT

To the Commissioner of Taxation  
and the Commonwealth of Australia

I hereby certify that the.....  
(DESCRIPTION OF GOODS)  
purchased by me from ..... on .....  
(NAME OF SUPPLIER) (DATE)  
was/will be exclusively for resale to persons who will  
use the goods  
for.....  
(STATE NATURE OF USE)  
and exemption is accordingly claimed under item 65/65A  
in the First Schedule to the above Act.

Signature : .....  
Name (Block Letters): .....  
Address : .....  
.....  
Date : .....

2.38 If a church pays sales tax on the purchase of any goods and then finds that those goods should have been purchased sales tax exempt, the church may ask the supplier for a refund of the sales tax paid. If this occurs, the church should provide the supplier with the same exemption certificate as is shown in paragraph 2.35.

2.39 All persons involved in the process of giving certificates have certain responsibilities and obligations. The certificates should be:

- . correctly completed;
- . supplied by a person properly authorized to act for, and on behalf of, the organization; and
- . given in good faith.

2.40 The Taxation Administration Act provides for penalties of up to \$5,000 or 12 months imprisonment, or both, for persons making false or misleading statements to taxation officers. In addition, the Court may impose a penalty of up to double the amount of unpaid sales tax. The completed certificates constitute statements to a taxation officer for the purposes of this Act even though the certificates may not be supplied directly to a taxation officer, for example, where they are supplied to a retailer or wholesaler.

#### DOCUMENTS REMOVED FROM THE F.O.I. INDEX

3.1 This Ruling will affect previously issued documents and decisions in the following manner:

- (1) Documents on the Freedom of Information Index:  
All the Sales Tax related documents (including ST. Rulings) listed at Appendix B are superseded.
- (2) Australian Sales Tax - A.G.P.S. Canberra, 1984:  
All the paragraphs listed at Appendix C are no longer applicable.
- (3) Sales Tax Exemptions and Classifications - A.G.P.S. Canberra, 1983:  
All rulings relating to the items in the First Schedule



to the Sales Tax (Exemptions and Classifications) Act, 1935 listed at Appendix C are amended to the extent that they are inconsistent with this Ruling.

(4) Private Rulings:

All private rulings previously issued in relation to items 65 and 65A in the First Schedule to the Sales Tax (Exemptions and Classifications) Act, 1935 are amended to the extent that they are inconsistent with this Ruling.

COMMISSIONER OF TAXATION  
8 November 1990

APPENDIX APPENDIX

APPENDIX A

INDEX OF TOPICS COVERED IN THIS RULING

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APPENDIX

APPENDIX B

ITEMS 65 AND 65A

DOCUMENTS ON F.O.I. INDEX SUPERSEDED

F.O.I. REF.	DESCRIPTION
OTHER REF.	
1094131	Non-profit organizations - church and
Head Office	community youth clubs - no exemption
81/12664	for goods purchased for own use.
VIC. STOR	
2902	
1098069	Blank recording tapes - used in church
Head Office	services - used to provide persons in
80/12163	remote localities, in hospitals, or
VIC. STOR	
2776	those incapable of attending church

STOR	services the opportunity to listen to	WA.
	the recorded church services -	373
	classification for sales tax purposes.	
1130823	Printed matter produced by churches,	
Head Office	religious organizations, trade	
ST 66/E 88 P	organizations and similar non-profit	
F 95	bodies - liability to tax when produced	
VIC. STOR 151	for own use.	
1165192	Chain necklets for use with religious	
Head Office	medals - classification.	
70/4163		WA.
STOR 44J		
QLD. QSTO		
40/67		
1167089	Church of Scientology - liability to	
Head Office	taxation.	
69/4170		WA.
STOR 37		
NSW. STCM 295		
QLD. QSTO 57/		
1210332	Equipment for use in religious	
Head Office	devotion - whether exempt.	
85/5536-2 F45		
(ST 2313)		

APPENDIX

APPENDIX C

ITEMS 65 AND 65A

PARAGRAPHS SUPERSEDED IN AUSTRALIAN SALES TAX

A.G.P.S. CANBERRA 1984

PARA.	TOPIC
272 - 275	Churches and religious organizations
1453	Wine for use in church services

SALES TAX EXEMPTIONS AND CLASSIFICATIONS

A.G.P.S. CANBERRA 1983

RULINGS SUPERSEDED

Subitem 65(1)  
Subitem 65(2)  
Item 65A

