


STD 95/5 - Classification of water treatment equipment and chemicals used in air conditioning systems

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Sales Tax Determination

Title: Classification of water treatment equipment and chemicals used in air conditioning systems

Background

Many commercial and industrial buildings use water treatment equipment and chemicals in their air conditioning systems. In some cases this equipment is fixed and comprises a dosing pump, metering pump and water treatment control system. The dosing pump is used to sterilise the tower water by periodically injecting a dose of chemical into the water from a separate fixed tank.

In other cases a test kit and portable dosing system (consisting of a bucket or similar vessel) is used to measure the water quality and hand dose the water cooling storage tank. The chemicals used to sterilise the tower water in portable systems are marketed as distinct from those used with dosing pumps.

The Australian Taxation Office (ATO) has received a number of complaints from manufacturers, wholesalers and retailers of water treatment equipment and chemicals that the rate of tax on these goods varies according to whether the equipment is fixed and how the chemicals are marketed. This determination sets out the ATO view on the classification of these goods and the reasons for different rates applying to them.

Issue Which water treatment equipment and chemicals are covered by *subitems 6(2) or 6(4) of Schedule 2 to the Sales Tax (Exemptions and Classifications) Act 1992* and taxable at the concessional *Schedule 2* rate?

Decision Fixed water treatment equipment is covered by *subitem 6(2) of Schedule 2*. Chemicals marketed principally as materials for use in operating this equipment are covered by *subitem 6(4) of Schedule 2*. Rust inhibiting chemicals marketed principally for use with fixed dosing pumps are also covered by *subitem 6(4)*.

Portable dosing equipment and test kits, and chemicals marketed for use with these goods, are covered by *item 1 of Schedule 4* and currently taxable at the rate of 21%, rising to 22% on 1 July 1995.

Where tax has been paid at the *Schedule 4* rate on fixed water treatment equipment or chemicals marketed principally for use with this equipment, it will have been overpaid within the meaning of the credit provisions in both current and previous sales tax legislation. Entitlement to a credit would be subject to a claimant satisfying the normal requirements of the relevant credit provisions.

Date of effect This determination relates to the sales tax legislation that came into effect on 1 January 1993. There were similar provisions under the previous sales tax legislation which applied before 1 January 1993.

Reasons *Subitem 6(2) of Schedule 2 to the Sales tax (Exemptions and classifications) Act 1992 covers appliances or equipment for softening, filtering, de-salting or sterilising water, if they are of a kind ordinarily installed as fixtures. It does not cover goods of a kind ordinarily installed in connection with swimming pools or spa baths.*

We have based our decision on the following legislative provisions:

subitems 6(2) and 6(4) of Schedule 2 to the Sales Tax (Exemptions and Classifications) Act 1992 *Subitem 6(4) extends the concession to cover goods marketed principally as parts for these goods or materials for use in operating these goods.*

Fixed water treatment equipment is plumbed into the cooling tanks and its pumps are permanently attached to the cooling towers that form part of the air conditioning system. The dosing pump is used to sterilise the tower water by periodically injecting a dose of chemical into the water from a separate fixed tank. The injection of chemical kills any existing bacteria and prevents them recurring. Rust inhibiting chemicals are also used with the dosing pumps to prevent corrosion scale building up (de-salting) in them. Consequently, the water treatment equipment is covered by *subitem 6(2)* because it is both fixed and it is used to sterilise water.

Chemicals used in operating this equipment are covered by *subitem 6(4)* if they are marketed principally for this purpose. *Subitem 6(4)* only requires these chemicals to be used in operating the fixed water treatment equipment to qualify for concessional treatment. They are not also required to be used to soften, filter, de-salt or sterilise the water. Consequently, rust inhibiting chemicals marketed principally for use with fixed dosing pumps are also covered by *subitem 6(4)*.

Portable dosing equipment and test kits are not the same class of goods as those installed as fixtures and therefore do not satisfy the requirements of the subitem. Consequently, these are covered by *item 1 of Schedule 4*.

Chemicals of the type used to hand dose water cooling storage tanks are not marketed principally for use in operating fixed water treatment equipment. Consequently, these are also covered by *item 1 of Schedule 4*.

Communication of the Decision

This Determination is a public ruling for the purposes of section 77 of the *Sales Tax Assessment Act 1992* and may be relied upon by any person to whom it applies. It has been made available for publication by the sales tax publishing houses and has been mailed directly to sellers of these goods that are registered as sales taxpayers with the ATO.

Commissioner of Taxation

8 June 1995

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Related Determinations:

Related Rulings:

Subject Ref: sales tax classifications, water treatment equipment and chemicals found in air conditioning systems

Legislative Ref: Sales Tax (Exemptions and Classifications) Act 1992 subitems 6(2) and 6(4) of Schedule 2

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