

STD 97/1 - Title: Trigger sprayers and pressure sprayers



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This Document is a 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.

Sales Tax Determination

Title: **Trigger sprayers and pressure sprayers**

Background

Trigger and pressure sprayers consist of a spraying device and a reservoir for holding liquid. Trigger sprayers are operated by squeezing the trigger which releases a quantity of the liquid as spray. Pressure sprayers usually have a higher liquid capacity than trigger sprayers and incorporate a hand pumping facility which pressurises the reservoir enabling continuous spraying.

Trigger sprayers are used for a multitude of purposes including window cleaning, ironing, hairdressing and gardening. On the other hand, pressure sprayers are used predominantly in the garden to apply plant foods, weed killers, fungicides and insecticides.

Recently there has been some uncertainty as to whether these goods are taxable at the concessional rate of 12%, applicable to certain goods of a kind ordinarily used for household purposes, or whether the rate of 22% applies.

Issue

What rate of tax applies to trigger sprayers and pressure sprayers?

Decision

Trigger sprayers and pressure sprayers are taxable at the rate of 22% under Item 1 in Schedule 4 to the *Sales Tax (Exemptions & Classifications) Act 1992* (ST(E&C)Act).

Date of effect

This determination is effective immediately and replaces any previous private rulings to the extent that they are inconsistent with this determination. If any person has been acting on the basis of any such previous ruling, they have until 19 June 1997 to comply with this determination.

Reasons

In order for goods to be classified at the concessional rate of 12% under subitem 1(1) in Schedule 2 to the *ST(E&C)Act* they must be:

- of a kind ordinarily used for household purposes; and
- covered by one of the categories listed in paragraphs (a) to (u) of the subitem.

We have based our decision on the following legislative provisions:

Sales Tax (Exemptions and Classifications) Act 1992 Schedule 2 Paragraphs (j) and (s) of subitem 1(1)

With regard to trigger sprayers the only paragraphs which may have application are:

- paragraph (j) which covers *vacuum cleaners, carpet sweepers, dishwashers and other implements and appliances of a kind ordinarily used for cleaning purposes*; and
- paragraph (s) which covers *kitchen utensils and hardware*.

case law:

DFC of T v. Rotary Offset Press Pty Ltd 71 ATC 4170 at p 4175; (1971) 2 ATR 411 at 417
Rotary Offset Press Pty Ltd v. DFC of T 72 ATC 4212 at 4213

DFC of T v. Stewart & Anor 84 ATC 4146 at 4155; (1984) 15 ATR 387 at 398

In deciding whether trigger sprayers are covered by either of these paragraphs, it is first necessary to determine the basic nature or essential character of the goods in the light of common knowledge and popular usage. As stated by Deane J. in *DFC of T v. Stewart & Anor 84 ATC 4146; (1984) 15 ATR 387* 'what is required is an objective characterisation of the goods themselves in the light of all the relevant circumstances'. Trigger sprayers are objectively identifiable as general purpose liquid spray devices.

and ruling:

ST (NS) 4 Sales Tax: A guide to the classification of goods for sales tax purposes

Secondly, it is necessary to determine the meaning of the words used in paragraphs (j) and (s). While most words in these paragraphs have a clear meaning, the meaning of the phrase *other implements and appliances of a kind ordinarily used for cleaning purposes* as it appears in paragraph (j) may not be readily apparent. In this regard, the class or *ejusdem generis* rule of interpretation provides assistance. The essence of this rule is that where two or more specific words forming a class are followed by general words, the courts are likely to limit the scope of the general words to the class of the specific words.

In the context of paragraph (j), the specific words *vacuum cleaners, carpet sweepers and dishwashers* form a class of goods which are designed primarily to actively carry out a cleaning process. In deciding the scope of the general words *other implements and appliances of a kind ordinarily used for cleaning purposes* it is therefore appropriate to restrict their application to goods which are similarly designed, or have a similar active cleaning function.

The final step in the classification of trigger sprayers for the purposes of paragraph (j) or (s) is to decide whether the objective identification of these goods as general purpose liquid spray devices fits the words used in these paragraphs.

In relation to paragraph (j) it is clear that trigger sprayers are not *vacuum cleaners, carpet sweepers or dishwashers*. Nor are they *other implements and appliances of a kind ordinarily used for cleaning purposes* because they are not designed primarily to actively carry out a cleaning process. They are general purpose liquid spray devices which may be used for many different purposes, including being used in connection with cleaning.

Similarly, while trigger sprayers may be used in the kitchen, their character as general purpose goods used throughout the house and in the garden does not fit the phrase *kitchen utensils and hardware* used in paragraph (s).

Trigger sprayers are not covered by paragraph (j) or (s) in subitem 1(1) to Schedule 2. They are taxable at the rate of 22% under Item 1 in Schedule 4.

Pressure sprayers are objectively identifiable as garden liquid spray devices which do not fit into any of the categories listed in paragraphs (a) to (u) of subitem 1(1) in Schedule 2. Pressure sprayers are therefore not covered by subitem 1(1) but are taxable at the rate of 22% under Item 1 in Schedule 4.

**Communication
of the Decision**

This determination has been made available for publication by the sales tax publishing houses and will be provided to interested persons upon request.

Commissioner of Taxation
19 March 1997

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