

# ***ST 2094 - SALES TAX : VIDEO RECORDING BY TELEVISION STATIONS***

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TAXATION RULING NO. ST 2094

SALES TAX : VIDEO RECORDING BY TELEVISION STATIONS

F.O.I. EMBARGO: May be released

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1127435	MANUFACTURE : VIDEO RECORDINGS SALE VALUE : VIDEO RECORDINGS	SALES TAX ASSESSMENT ACT (NO.1) SECTION 3 AND SECTION 18 SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT SUB-ITEM 6(1), THIRD SCHEDULE

FACTS                    Television stations produce programmes on video tape. The process involves the making of a master video tape from which dubbed copies are produced. The dubbed copies are used in the actual transmission of television programmes. They are used either by the producing television stations themselves or are distributed to and used by regional television stations. After use by regional television stations dubbed copies are returned to the distributing station. Recorded video tapes which have been telecast are generally erased and used for the recording of other material. Dubbed copies of television programmes are not produced for sale or lease.

RULING                2.            Sub-item 6(1) in the Third Schedule to the Sales Tax (Exemptions and Classifications) Act taxes at 7.5% exhibition copies of motion picture films, including films to be exhibited by televising, but not including (inter alia) exhibition copies of films that are to be screened or televised exclusively, or primarily and principally, for advertising purposes.

3.            Recording on video tape whether it be the original recording or the dubbing of a copy has been accepted for some years as "manufacture" for sales tax purposes. Video tape recordings are regarded as motion picture films and, accordingly, where such recordings are produced by television stations they are taxable at the 7.5% rate under sub-item 6(1), Third Schedule, unless they are to be televised exclusively, or primarily and principally, for advertising purposes. Advertising video tapes are taxable at the general rate, presently 20%.

4.            Master video tapes used by television stations to produce dubbed copies qualify for exemption from sales tax as "aids to manufacture". In the event that a master video tape is not used to produce dubbed copies but is used as an exhibition copy, e.g. for telecasting, it is taxable. Dubbed copies of programmes, news and other events generally are taxable at 7.5%, being exhibition copies of motion picture films of the kind

covered by sub-item 6(1), Third Schedule.

5. The sale value for taxable video recordings dubbed onto 1" or 2" video tape by television stations will be determined as follows:-

- (i) Video tape recordings other than advertising or promotional recordings -  
  
\$35 per machine hour (it is understood that 2 machines are used in the dubbing process) plus \$3 per hour for 1" video tape or \$7 per hour for 2" video tape (whether new or secondhand tape);
- (ii) Video tape recordings of advertisements or promotional material -
  - (a) if new tape is used -
    - Reel to reel - \$15 plus cost of tape, reel and box.
    - Cassette - \$15 plus cost of cartridge and descriptive label.
  - (b) if secondhand tape is used -
    - \$16 per advertisement dubbed.

Particular video tapes produced by television stations fall for sales tax classification as indicated below:

(i) Programme Inserts

Programme inserts, such as dubbings of interviews, which are included in programmes for telecast live to air are exhibition copies applied to a television station's own use. They are covered by sub-item 6(1), Third Schedule, and are taxable at 7.5% provided they are not of an advertising nature.

Inserts into programmes which are live to air but which are simultaneously recorded for later distribution to other television stations are also regarded as exhibition copies applied to the recording station's own use and taxable. Their primary and principal use is as a programme insert for use in a live to air programme and any use in connection with the dubbing of exhibition copies for possible televising by other stations is considered to be incidental to the primary use.

(ii) Library Tapes

Library tapes consist mainly of news material which are stored for use in future programmes. A sales tax liability for dubbed video tapes arises when the tapes are placed into a television station library. At that point the video tapes are applied to the station's own use. However, if within three years of manufacture, a video tape which was placed in the library is used as a master original in producing taxable dubbed

copies, it will qualify at that stage for exemption as an "aid to manufacture". Where these circumstances arise, television stations will be entitled to claim a credit for the sales tax previously paid on the video tapes.

(iii) Preview and Evaluation Copies

Video tapes which are televised "in house" for the benefit of senior executives or sales personnel are considered to be covered by item 6(1), Third Schedule, and taxable at the rate of 7.5%. Even though preview and evaluation tapes are not necessarily transmitted to the general public, they are regarded as "exhibition copies" for the purposes of sub-item 6(1), Third Schedule.

(iv) Time Shift Recording

Programmes recorded on video tape from signals received by satellite or from other sources for later replay are considered to be covered by sub-item 6(1), Third Schedule, and are taxable at the 7.5% rate. Time shift recordings are exhibition copies of motion picture films and are subject to tax when they are applied to a television station's own use by being televised. However, if such a recording is made but not later televised, i.e. merely recorded and then erased, then no sales tax liability will arise.

(v) Street Interviews

Sales of dubs of street interviews involve the use of domestic video tape (i.e. 1/2" tape). The sale value for dubbed 1/2" video tapes of street interviews is based on \$20 per machine hour (2 machines being used in the dubbing process) plus the cost of the video tape.

(vi) Exhibited Master Tapes

A master original video tape which has qualified for exemption as an "aid to manufacture" and which is subsequently exhibited is considered to be secondhand and not subject to sales tax.

COMMISSIONER OF TAXATION  
30 October 1984