

ST 2173 - SALES TAX: EARTH MOVING EQUIPMENT: SUB-CONTRACTORS

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TAXATION RULING NO. ST 2173

SALES TAX: EARTH MOVING EQUIPMENT: SUB-CONTRACTORS

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1199520	EARTH MOVING EQUIPMENT: SUB-CONTRACTORS	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 78B, FIRST SCHEDULE

PREAMBLE Sub-item 78B(1) in the First Schedule exempts machinery and equipment for use exclusively or primarily and principally in the excavation or movement of earth, rock or natural deposits in the soil in the course of carrying out contracts for a department, authority, council, board, trust or fire brigade of a kind referred to in item 74, item 77, or item 78, being machinery or equipment other than road vehicles of a kind ordinarily used for the transport of persons or the transport or delivery of goods, or parts for those vehicles.

RULING 2. Although the sub-item refers to carrying out contracts for a department, etc. exemption under the item is not restricted to machinery and equipment acquired by a principal contractor. The expression "carrying out contracts for a department, etc." is considered sufficiently wide to confer exemption on machinery and equipment acquired by a sub-contractor engaged by a principal contractor to carry out all or part of the principal contract.

3. Whether or not exemption applies to machinery and equipment acquired by a sub-contractor in these circumstances can only be determined in the light of the facts of individual cases. If the sub-contract is for a long term or if the sub-contractor habitually derives his income from contracts specified in sub-item 78B(1) it is likely that the machinery and equipment would satisfy the exclusive or primary and principal requirement and exemption would apply.

4. On the other hand, if machinery and equipment acquired by a sub-contractor was for use intermittently in carrying out contracts specified in sub-item 78B(1) and private or commercial contracts, it would be unlikely that the goods could satisfy the exclusive or primary and principal test in the sub-item and exemption would not apply.

COMMISSIONER OF TAXATION
14 October 1985

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