


ST 2246 - SALES TAX : AEROPLANES AND PARTS ETC

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TAXATION RULING NO. ST 2246

SALES TAX : AEROPLANES AND PARTS ETC

F.O.I. EMBARGO: May be released

REF

*** NOTE: THIS RULING HAS BEEN MODIFIED BY ST 2322

H.O. REF: 85/633-9
84/5742-5

DATE OF EFFECT:

B.O. REF: PARRA. X-1/119A/1
BRIS. K409/1

DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1137284	AEROPLANES AND PARTS ETC	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; FIRST SCHEDULE, ITEM 119A

PREAMBLE

On and from 19 August 1981 exemption from sales tax for aeroplanes has been governed by amendments to item 119A. The item, as it now reads, extends to:-

- (1) Aeroplanes, including flying boats, seaplanes and helicopters, but not including goods to be used by a person or persons exclusively or principally for purposes other than business or industrial purposes unless that use is in the course of a business carried on by another person or other persons, being a business consisting of the carriage of passengers or goods.
- (2)
- (3) Equipment (being machines, implements or apparatus) for use in goods covered by sub-item (1).
- (4) Parts for goods covered by sub-item (1) or (3)
.....
- (5) Materials (other than lubricants) for use in the construction or repair of, so as to form part of, goods covered by this item.

2. Prior to 19 August 1981 all aeroplanes were exempt from sales tax. Furthermore, exemption extended to gliders - sub-item 119A(2) specifically referred to them. As part of the amendments in 1981 sub-item 119A(2) was repealed. In the result gliders, including hang gliders, are taxable at the rate of 20%.

3. The intention of the amendments to sub-item 119A(1) was to deny exemption from sales tax to aeroplanes for use exclusively or principally for private and recreational purposes. Notwithstanding the general denial of exemption, aeroplanes which may be used for recreational purposes may still

qualify for exemption where they are used in business which provides the recreational use, e.g. in a business which consists of the carriage of passengers on joy flights, sight seeing flights, etc.

4. The ordinary meaning of aeroplane is a power-driven heavier-than-air aircraft with fixed wings. Hot air balloons which are lighter-than-air aircraft are not aeroplanes. There is no exemption for hot air balloons and they are taxable at 20%.

5. The exemptions accorded under sub-items (3), (4) and (5) of item 119A relate to aeroplanes which are exempt under sub-item (1).

6. Aeroplanes are used in a wide variety of situations, e.g.:-

- (a) by an airline company in the transport of passengers and freight;
- (b) by companies who supply pilots to take paying passengers on joy flights;
- (c) by companies etc. for use in their businesses, e.g. transporting business and professional persons and employees from one place of business to another place and carrying merchandise, equipment, tools, supplies, samples etc;
- (d) by pastoral companies and individual graziers in -
 - moving workers to various parts of properties
 - aerial mustering
 - aerial spraying
 - aerial seed sowing
 - dropping fodder to flood bound stock
- (e) by mining companies principally to transport employees or goods to remote places, including the use of helicopters to transport employees and goods to off-shore rigs;
- (f) by commercial training schools for pilot training;
- (g) by aero clubs for use by members and for pilot training;
- (h) by an individual, association, club etc. not otherwise engaged in the business of carriage of persons or freight by air, for use principally for private and recreational purposes; and
- (i) by individuals for private purposes, e.g. the charter of aeroplanes for joy flights.

RULING

7. To determine whether exemption from sales tax should be granted in any case in respect of the acquisition of an aeroplane, it is necessary to have regard to all the uses to which the aeroplane may be put. The nature of the business of the taxpayer, his other activities, any prior uses made by him of aeroplanes, the acceptability of any stated future uses of the particular aeroplane, etc. are all matters to be taken into

account.

8. Aeroplanes for use in the situations represented by sub-paragraphs 6(a) to (f) would generally be exempt from sales tax. While it may be necessary to establish the extent of private or recreational uses of an aeroplane in particular cases, as a general rule it is expected that aeroplanes acquired in the situations envisaged would be used primarily and principally for business purposes.

9. Whether or not aeroplanes acquired by aero clubs - sub-paragraph 6(g) - are exempt from sales tax will depend in each case upon the use made of the aeroplane. There are some uses which, it is considered, are private and recreational, e.g. use by members and non-members for joy flights, and use by members for pilot training. On the other hand there may be uses which are clearly business uses, e.g. the transport of passengers and goods for business purposes, aerial photography, crop dusting, etc. It will be a case of taking all the uses into account in relation to each aeroplane and determining whether there is a primary and principal business use or a primary and principal private and recreational use.

10. Sub-paragraphs 6(h) and (i) are examples of situations where exemption would not be available, i.e. situations where the exclusive or principal use of aeroplanes would be for private and recreational purposes.

11. Parts for aeroplanes follow the classification of the aeroplane being repaired. To be exempt under sub-item 119A(4) the parts must be for use in repairing an aeroplane which at the time of purchase of the parts qualifies for exemption under sub-item 119A(1). The same test applies under sub-item 119A(3) for equipment for use in aeroplanes and under sub-item 119A(5) for materials (other than lubricants) for use in the construction or repair of, so as to form part of, goods covered by item 119A. Parts and materials for use in the repair of taxable aeroplanes are also taxable as is equipment for use in such aeroplanes.

12. Where a purchaser is uncertain about the classification of an aeroplane full details of the expected uses of the aeroplane should be forwarded to the local branch of the Taxation Office for decision.

COMMISSIONER OF TAXATION
26 May 1986

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