

ST 2247 - SALES TAX : SECTION 12D, SALES TAX PROCEDURE ACT

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TAXATION RULING NO. ST 2247

SALES TAX : SECTION 12D, SALES TAX PROCEDURE ACT

F.O.I. EMBARGO: May be released

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RULING

In the course of administering the sales tax law the Australian Taxation Office issues many rulings relating to the classification of goods. From time to time it becomes necessary to review rulings. In some cases an existing ruling may be altered; e.g. goods previously ruled to be exempt may be ruled to be taxable at 20%.

2. Where a ruling is altered section 12D of the Sales Tax Procedure Act operates to protect persons who have acted in accordance with the previous ruling, provided that the person who received the ruling did not supply any mis-statement or suppress any material fact in seeking the original ruling. The effect of section 12D is to remit any tax underpaid through the alteration to the previous ruling.

3. Section 12D applies only to alterations of written rulings. Sub-section 12D (4) defines a "ruling" to mean any written ruling, decision or advice either given to a particular person or published for general information by the Australian Taxation Office. Besides specific written rulings to individual taxpayers the section extends to decisions published in the two publications issued by the Taxation Office - Australian Sales Tax and the Sales Tax Exemptions and Classifications publication - and to rulings issued under the system of taxpayer rulings which are prefixed with an "ST" number.

4. The protection of section 12D is only available to persons who have relied upon written rulings issued by the Taxation Office. It does not extend to persons claiming to have received oral advice from taxation officers or to persons who rely upon advice from sources, including professional sources, outside of the Taxation Office, unless that advice is supported by a written ruling given by the Taxation Office.

5. Likewise, taxpayers cannot enlist the protection of section 12D merely by advising the Taxation Office that a certain course of action, such as the classification of goods in a particular manner for sales tax purposes, will be assumed to be correct unless the Taxation Office advises to the contrary. This does not constitute a ruling for the purposes of section 12D. In all cases written advice from the Taxation Office is required before section 12D can apply.

6. Section 12D operates only to remit tax underpaid as a

result of an altered ruling. It does not authorize or provide for a refund of tax where the altered ruling results in a lower amount of tax being paid in the future. For example goods previously ruled to be taxable at 20% may on review be ruled taxable at 10% or exempt from sales tax. Whether a refund is available will depend on whether the provisions in the sales tax law relating to refunds operate in the particular circumstances.

COMMISSIONER OF TAXATION
20 May 1986