


***ST 2273 (as amended 4/9/86) - SALES TAX : GOODS
PURCHASED OR IMPORTED BY A
WHOLESALER/RETAILER SPECIFICALLY FOR SALE
BY RETAIL***

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TAXATION RULING NO. ST 2273 (as amended 4/9/86)

SALES TAX : GOODS PURCHASED OR IMPORTED BY A
WHOLESALER/RETAILER SPECIFICALLY FOR SALE BY RETAIL

F.O.I. EMBARGO: May be released

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WHOLESALER/RETAILER

SALES TAX REGULATIONS;
REGULATION 12

RULING

Paragraph 12(1)(a) of the Sales Tax Regulations requires a registered person to quote his certificate in respect of the purchase of goods, or the entry for home consumption of imported goods, for sale by him by wholesale.

2. Paragraph 12(1)(e) of the Sales Tax Regulations, effective from 5 June 1985, requires a registered person being a wholesale merchant, or a manufacturer, who sells goods principally by wholesale, i.e. a wholesaler/retailer, to quote his certificate in respect of the entry for home consumption of imported goods, or the purchase of goods, for sale by him for the purposes of the business.

3. Prior to 5 June 1985, paragraph 12(1)(e) did not require a wholesaler/retailer to quote his certificate in respect of goods purchased or imported specifically for sale by him by retail. Sales tax was paid in respect of the goods at the time of purchase or importation and no further sales tax liability arose on the sale of the goods by retail.

4. The combined effect of paragraphs 12(1)(a) and 12(1)(e) is to require a wholesaler/retailer to quote his sales tax certificate in respect of all goods purchased or imported by him, whether for sale by wholesale or by retail. Thus all goods are held in a tax-free stock. Where the goods are sold by wholesale without quotation of certificate tax is payable on the wholesale selling price of the goods. Where the goods are sold by retail tax is payable on the price for which the goods are sold by wholesale. Whether a wholesaler/retailer sells goods by wholesale or retail tax in both instances will be payable on the wholesaler/retailer's wholesale selling price of the goods.

5. The operation of paragraph 12(1)(e) is limited as a result of the decision in *Brayson Motors Pty Ltd v FCT* 85 ATC 4125; 16 ATR 267. Brayson Motors was a retailer of motor vehicles. It also sold motor vehicle parts by wholesale for which it was registered for sales tax. The High Court held that Brayson Motors was required to be registered only for its activities in relation to the sale of motor vehicle parts; the sale of motor vehicles was a separate business activity which did not require the company to be registered for sales tax purposes.

6. The effect of the Brayson Motors case is that paragraph 12(1)(e) will not apply to retail sales of a wholesaler/retailer where the retail sales arise out of a separate business activity. For example, a registered person may sell photocopy machines and photocopy supplies by wholesale and retail and sell typewriters only by retail. As a wholesaler/retailer he would be required by the operation of paragraph 12(1)(e) to quote his certificate on the purchase of all photocopy machines and supplies even where the goods may be specifically purchased for retail sale. The purchase and sale of typewriters, however, would be a separate business activity for which there is no requirement to be registered. Paragraph 12(1)(e) would not apply to purchases of typewriters and sales tax liability would be satisfied by payment of tax on the typewriters at time of purchase.

7. Whether a person is carrying on separate businesses in the sense envisaged in the preceding paragraphs is a matter to be decided in the light of all the circumstances of each case. Generally speaking, goods which are sold solely by retail would need to be a different class of goods to those sold by wholesale and by retail. It would need to be established that the particular goods were only ever sold by retail and were not associated in any way with wholesale activities.

8. There will be cases where the delineation between retail and wholesale sales is not as clear cut as the example outlined above. Taxpayers are advised to seek advice from their local branch of the Taxation Office if they are uncertain whether they are required by paragraph 12(1)(e) to quote their sales tax certificate on the purchase of goods for retail sale.

COMMISSIONER OF TAXATION
20 August 1986