

ST 2304 - SALES TAX FOUR WHEEL DRIVE MOTOR VEHICLES FOR USE IN AGRICULTURAL INDUSTRY BY CONTRACTORS



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TAXATION RULING NO. ST 2304

SALES TAX FOUR WHEEL DRIVE MOTOR VEHICLES FOR USE IN
AGRICULTURAL INDUSTRY BY CONTRACTORS

F.O.I. EMBARGO: May be Released

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1206711	FOUR WHEEL DRIVE MOTOR VEHICLES FOR USE IN AGRICULTURAL INDUSTRY BY CONTRACTORS	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 13, FIRST SCHEDULE

PREAMBLE Sub-item 13(1) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act exempts from sales tax machinery, implements and apparatus for use in agricultural industry if, in the opinion of the Commissioner, they are goods of a kind used exclusively, or primarily and principally, in that industry.

2. In the context of the extent to which certain four-wheel drive motor vehicles qualify for exemption under sub-item 13(1) paragraph 8 of Taxation Ruling No. ST 2234 states that exemption under the sub-item is not limited to persons engaged in a business of agriculture, i.e., primary producers, but may also apply to contractors who are engaged in agricultural industry. While certain contractors are specified in the Ruling as being engaged in agricultural industry others, e.g., windmill contractors, bore sinking contractors, are not so specified.

3. Since the issue of Ruling No. ST 2234 a number of enquiries have been received about the liability to sales tax of four-wheel drive motor vehicles acquired by contractors for use in agricultural industry. The purpose of this Ruling is to update Ruling No. ST 2234 in the light of the responses to the enquiries .

RULING 4. It is reiterated that exemption under sub-item 13(1) is not limited to persons engaged in a business of primary production. It applies to goods for use in agricultural industry. What is decisive is the use of which the goods are put and whether the use can be said to be a use in agricultural industry.

5. Many activities which may be said to be part and parcel of agricultural industry are carried out by independent contractors. Ruling No. ST 2234 specifies harvesting, crop dusting, fertilizer spreading, agricultural fencing, droving and shearing as activities in this category. The Ruling excludes house and shed building, bore sinking, pest eradication and windmill construction. On further review it has been concluded that the exclusion cannot be justified - the farm shed building, bore sinking etc are just as incidental to agricultural industry

as are harvesting, crop dusting, etc.

6. It is not sufficient merely to establish that a particular use of goods is a use in agricultural industry. Exemption from sales tax is only available where goods are for use exclusively, or primarily and principally in agricultural industry. To take an eligible four-wheel drive motor vehicle as an example, a contractor would need to demonstrate that the vehicle was for use exclusively, or primarily and principally, in agricultural industry. This is a matter to be decided after examination of all the uses to which the vehicle is to be put.

7. It has been suggested that the use by a contractor of an eligible four-wheel drive vehicle for travel between the contractor's residence and an agricultural property should not be regarded as use in agricultural industry. The suggestion emanates from the rule of income tax law that expenses of travel between home and place of employment or business are not expenses incurred in gaining or producing assessable income within the meaning of subsection 51(1) of the Income Tax Assessment Act. The concept of subsection 51(1) is quite different to that of sub-item 13(1). Travel between a contractor's home and an agricultural property may be regarded as a use in agricultural industry.

8. Taxation Ruling No. ST 2234 is modified accordingly.

COMMISSIONER OF TAXATION
13 November 1986