


ST 2355 - SALES TAX : LIABILITY ON GOODS IMPORTED BY CONSUMERS

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TAXATION RULING NO. ST 2355

SALES TAX : LIABILITY ON GOODS IMPORTED BY CONSUMERS

F.O.I. EMBARGO: May be released

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IMPORTED GOODS

SALES TAX ASSESSMENT
ACT (NO.5), SECTION 4.

SALES TAX (EXEMPTIONS
AND CLASSIFICATIONS)
ACT, ITEM 145, FIRST
SCHEDULE

OTHER RULINGS ON TOPIC: ST 2235

PREAMBLE

The purpose of this Ruling is to explain the sales tax liability of consumers who purchase goods from overseas for their own use.

FACTS

2. The scheme of the sales tax law is to impose tax on all goods that are imported into Australia for use or consumption here. Second-hand goods that have been used in Australia are not ordinarily taxable but imported goods that have been used overseas are taxable on the basis that they have not previously gone into use or consumption in Australia.

3. Sales tax is a revenue tax and is not a protective tariff. It is payable on all imported goods unless they are covered by one of the exemption items in the First Schedule to the Sales Tax (Exemptions and Classifications) Act. For example, clothes for human wear are exempt under item 120, First Schedule, the exemption applying irrespective of who imports them.

4. There is no discretion in the sales tax law to waive sales tax that is payable on imported goods, irrespective of the nature of goods and the reason for their importation. Goods may be imported by individuals for a wide range of reasons. For example, a vintage car enthusiast may import parts for a vintage car, a music student may import a musical instrument for study purposes or a firm may import a computer for business use. In many instances goods are imported by individuals because they are not available for purchase in Australia. In other situations goods are imported direct from overseas firms because that is the way the goods are marketed, ie, overseas firms offer to sell goods direct to Australian consumers.

5. The general position as outlined in paragraph 4 is subject to a limited sales tax exemption under item 145(a), First Schedule, for imported goods of insubstantial value. This exemption is tied to item 35 in Part I of Schedule 4 to the Customs Tariff. Under a by-law made under item 35, customs and sales tax charges do not apply to imported goods where the

combined customs duty and sales tax payable on the goods does not exceed \$20. Thus, where the combined customs duty and sales tax payable on the importation of goods is less than \$20, the goods can be entered free of sales tax.

RULING

6. Unless an overriding exemption applies, such as where goods are imported for use by an exempt body or for use in exempt circumstances or item 145(a), First Schedule (refer paragraph 5 above) applies, tax is payable at the time of importation by all persons who import taxable goods. The tax applies irrespective of the reason for which the goods are imported and whether or not the goods could be purchased in Australia.

7. Liability for payment of sales tax on goods imported by a person for his or her own use arises under Sales Tax Assessment Act (No.5). Sales tax due under Act (No.5) is payable at the time of entry of the goods for home consumption on the statutory sale value prescribed in sub-section 4(1). It is payable to the Collector of Customs with any duty payable on the goods. Under sub-section 4(1) the value on which tax is payable is as follows:-

- (i) the customs value of the goods, plus
- (ii) the customs duty payable on the goods, plus
- (iii) 20% of the total of (i) and (ii).

8. The 20 per cent mark up of the value for duty and the customs duty is included so as to bring the sale value of imported goods into line with that on which tax would be payable on similar goods manufactured in Australia. The 20 per cent mark up applies to all imported goods where tax is payable to the Customs including goods imported direct by a consumer for own use.

9. Tax also applies to imported unsolicited gifts as explained in Taxation Ruling NO. ST 2235. The value on which tax is payable on unsolicited gifts is the same as that set out in paragraph 7 above.

COMMISSIONER OF TAXATION
6 AUGUST 1987