

ST 2410 - SALES TAX : EQUIPMENT USED TO PROCESS RECYCLED WASTE PAPER AND SCRAP METAL

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TAXATION RULING NO. ST 2410

SALES TAX : EQUIPMENT USED TO PROCESS RECYCLED WASTE
PAPER AND SCRAP METAL

F.O.I. EMBARGO: May be released

REF N.O. REF: 88/419-7 DATE OF EFFECT: Immediate

B.O. REF: (Parra) X-44-M/9/87 DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1019876	WHOLESALE MERCHANT AIDS TO MANUFACTURE	SALES TAX ASSESSMENT ACT (No.1); SEC.3(1) SALES TAX REGULATION 4(1)

PREAMBLE This Ruling explains the sales tax position of persons engaged in recycling waste paper and scrap metal products.

2. The issues under consideration are :-

- . whether the sorting, shredding and baling of waste paper and the sorting, shredding, cutting and cleaning of scrap metal amount to manufacture or constitute only the processing or treatment of goods; and
- . whether exemption from sales tax is available for equipment for use in such activities as "aids to manufacture" as defined in Regulation 4(1) of the Sales Tax Regulations.

3. The following definitions in the sales tax provisions are relevant to determining the sales tax rights and obligations of persons carrying out such activities. The definitions are stated in the provisions to apply "unless the contrary intention appears."

4. The definition of "manufacture" in subsection 3(1) of the Sales Tax Assessment Act (No.1) embraces the ordinary meaning of the term and also includes the combination of parts or ingredients whereby an article or substance is formed that is commercially distinct from those parts or ingredients unless the combination is one that is customarily undertaken by users of the assembled article. In this latter instance manufacture will not be involved.

5. The definition of "Wholesale Merchant" in subsection 3(1) of Sales Tax Assessment Act (No.1) includes a person who applies any process or treatment to goods which are:

- (A) to be used in, wrought into or attached to goods to be manufactured by a manufacturer; or
- (C) to be exported from Australia and which are to be used in, wrought into or attached to goods to be manufactured outside Australia.

6. Persons covered by subparagraphs (A) and (C) above are

wholesale merchants for sales tax purposes and are required to register for sales tax. As such they are entitled to acquire, free of sales tax, by quotation of certificate, goods for use by them as aids to manufacture.

7. The definition of "aids to manufacture" as defined in Regulation 4(1) includes machinery and equipment for use by a registered person exclusively or primarily and principally -

- (i) in the actual processing or treatment of goods to be used in, wrought into or attached to goods to be manufactured.

8. For a "processing or treatment" to occur there must be some change in the nature, form or condition of goods. The change does not have to produce a commercially distinct article.

9. "Goods to be used in, wrought into or attached to goods to be manufactured" are defined in Regulation 4(1) to mean "goods to be so used or dealt with that those goods, or some essential element thereof, will form an integral part of the goods to be manufactured".

10. Under subsection 3(1) of Sales Tax Assessment Act (No.1), "Goods" includes commodities, but does not include -

- (a) goods which have, either through a process of retailing or otherwise, gone into use or consumption in Australia; or
- (b) goods which are sold as second-hand goods and are manufactured exclusively or principally from goods which -
 - (i) have, whether alone or as parts of other goods, gone into use or consumption in Australia; and
 - (ii) in the opinion of the Commissioner, in their condition as parts of the goods so manufactured, retain their character as goods or parts of goods which have gone into use or consumption in Australia.

FACTS

11. Used paper products are collected and sorted into various quality grades. They are then shredded and baled by using specialised plant and equipment. The bales are subsequently sold to manufacturers or exported overseas for use as raw materials in manufacturing paper products.

12. Scrap metal undergoes comparable processes. It is sorted and graded and plant and equipment is used in crushing, shredding, cutting into size and cleaning to bring it into a condition suitable for use by steel manufacturers as a raw material in the production of other metal materials.

RULING

13. The sorting, shredding, baling etc., of waste materials is not "manufacture" as defined, either within the normal meaning of the term or the expanded definition. A commercially distinct article is not brought into existence.

14. It is accepted, however, that the shredding or crushing of

waste materials for later use as raw materials in the production of other goods is a processing or treatment of goods. Where goods are also shredded or crushed in the course of sorting and baling, a processing or treatment of goods takes place.

15. Although the definition of "goods" excludes second-hand goods, it is considered that, after the waste materials have been shredded or crushed, they do not retain their character as the same goods which have previously gone into consumption and therefore are not necessarily excluded from the definition. Alternatively, even if the waste materials are not "goods", as defined, it is accepted that where the word "goods" appears in the definitions of "aids to manufacture" and "Wholesale Merchant" in relation to the processing or treatment of goods, the term "goods" bears its ordinary meaning and not its defined meaning. If this were not the case it would mean that a manufacturer producing new goods from second-hand materials would not be entitled to exemption for goods for use as aids to manufacture although he would have a liability to account for tax on the new goods produced. Such a position is clearly not within the intent of the law. The intention of the aids to manufacture provisions is to provide exemption for machinery for use by a manufacturer of goods as aids to manufacture, as defined, whether the raw materials used in producing the goods are new or second-hand.

16. Persons engaged in recycling waste materials for use as raw materials in the production of other goods are entitled to be registered as wholesale merchants for sales tax purposes provided that the waste materials undergo processing or treatment. They are entitled to obtain free of sales tax, under quotation of certificate as aids to manufacture, machinery and equipment for use exclusively or primarily and principally in activities which involve the processing or treatment of the waste materials, i.e., shredding, cutting, crushing. Exemption will apply to equipment used in sorting and baling the waste material where such activities form an integral part of the processing or treatment of the waste, e.g., where as a continuous operation the waste goods are sorted, shredded and baled.

17. Exemption under the aids to manufacture provisions will not apply where there is no processing or treatment of the waste materials. An example would be where used paper products are merely sorted and baled. The sorting of paper into different grades and subsequent baling is considered not to be a processing or treatment of goods. Persons who engage only in these activities are not entitled to exemption for equipment used in sorting and baling the waste paper or other waste material.

COMMISSIONER OF TAXATION
5 May 1988