


# ***ST 2419 - SALES TAX : TAX CREDITS CLAIMED IN RETURNS***

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TAXATION RULING NO. ST 2419

SALES TAX : TAX CREDITS CLAIMED IN RETURNS

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1183700	REFUNDS TAX CREDITS CLAIMED IN RETURNS REBATES	SALES TAX PROCEDURE ACT; SECTION 5

PREAMBLE Returns

Under the provisions of sub-section 5(1) of the Sales Tax Procedure Act, any person who is registered or is required to be registered under any Sales Tax Assessment Act and who, during any month;

- (i) sells goods;
- (ii) treats goods manufactured by him as stock for sale by retail;
- (iii) applies goods to his own use; or
- (iv) leases goods to a lessee,

is required to furnish to the Commissioner of Taxation a return of those goods within 21 days after the close of that month.

2. In accordance with sub-section 5(2), the return shall be in such form as is authorised by the Commissioner and shall set forth such information as is required for the due completion of that form.

3. Information to be completed on the return includes:-

- (i) the value of total sales of all goods;
- (ii) details of total sales of taxable goods grouped according to the rate of tax applicable, (including goods manufactured and treated as stock for sale by retail, goods applied to own use and goods leased);
- (iii) a calculation of the gross amount of tax payable at each rate of tax;
- (iv) the amount of any credits claimed for each rate of tax;
- (v) the amount of any credits that have not been fully offset in any previous return; and

(vi) the total amount of tax payable for the month.

Failure to furnish any of this information constitutes a breach of the requirements of sub-section 5(2).

#### Refunds

4. Registered taxpayers may be entitled to refunds of sales tax paid in certain circumstances such as those set out in Sales Tax Regulations 48, 49 and 58 and section 26 of Sales Tax Assessment Act (No.1). Common examples of circumstances where refunds may arise are:-

- (i) Reg.48(1) where tax has been paid on goods imported  
(a) & (b) by a taxpayer or tax has been included in the price of goods purchased in Australia and the goods are subsequently sold in taxable circumstances.
- (ii) Reg.49(1) where tax has been included in the price  
(e) & (f) of goods purchased in Australia or tax has been paid on goods imported by a manufacturer and the goods are used as "aids to manufacture" of taxable goods.
- (iii) Reg.58 where goods have been purchased tax paid by a person who subsequently exports those goods.
- (iv) Sec.26(1) where the Commissioner finds that there has been an overpayment of tax (e.g., as a result of a clerical error) and is satisfied that the tax to be refunded has not been passed on to another person, or, if passed on to another person, has been refunded to that other person. In these circumstances, the Commissioner must find that tax has been overpaid. In the absence of such a finding, no refund is payable.
- (v) Sec.26(3) where tax has been included in the price of goods purchased by a taxpayer who was required to quote his certificate but failed to do so.

#### Rebates

5. Subject to the other conditions of the regulation being met, Sales Tax Regulation 52 provides that refunds under Part IX of the Sales Tax Regulations (i.e., regulations 48, 49 and 58) may be made by way of deduction from tax payable in respect of monthly returns. Refunds claimed in this manner are termed "rebates".

6. Although the legislation does not specifically provide for refunds under section 26 of Sales Tax Assessment Act (No.1) to be made by way of rebate, where it is acceptable to the taxpayer these refunds may also be made in this fashion.

FACTS            7. Rebates should be claimed in the "tax credits" column of the sales tax return i.e., column 9.

8. Some taxpayers, when claiming rebates, do not complete column 9 on the return form. They instead reduce the sale value upon which tax is payable (columns 2-6) and the gross amount of tax payable (column 8) by amounts calculated to reflect the rebate being claimed.

RULING           9. The practice described in paragraph 8 is contrary to the requirements for compilation of the return form as outlined in sub-section 5(2) of the Procedure Act in that the gross taxable sale value and gross tax payable figures are understated and the amount of credit claimed is omitted.

10. In addition, because returns prepared in this manner do not accurately reflect the taxpayer's taxable transactions as required by sub-section 5(1), they constitute false or misleading statements. Such returns may render a taxpayer liable to prosecution under sections 8K, 8N and 8P of the Taxation Administration Act. Prosecution action will be taken in appropriate cases.

COMMISSIONER OF TAXATION  
2 June 1988