

SST 8 - Sales tax: classification of printed matter



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Taxation Ruling

Sales tax: classification of printed matter

This document is a public Ruling for the purposes of section 77 of the Sales Tax Assessment Act 1992 and may be relied upon as if it had the force of law.

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Chapter 1: What this Ruling is about

Overview

- 1.1 This Ruling explains which printed matter is exempt from sales tax, and also which printed matter is excluded from exemption and is, therefore, taxable. Extracts from the relevant sales tax legislation are reproduced at APPENDIX 1.
- 1.2 Unless printed matter is covered by one of the exemption Items contained in Schedule 1 to the *Sales Tax (Exemptions & Classifications) Act 1992* (the ST(E&C) Act) it is generally taxable at the Schedule 4 rate, currently 22%. However, some printed matter is taxable at the Schedule 2 rate, currently 12%; see APPENDIX 2.
- 1.3 Taxable printed matter can be conditionally exempt in certain circumstances. For example, labels are taxable at the Schedule 4 rate, currently 22%. However, descriptive labels that give product information (weight, contents, etc.) can be purchased free of sales tax by a manufacturer for use in relation to the manufactured goods.¹
- 1.4 This Ruling is expressed in non-technical language wherever possible. APPENDIX 3 provides a check list of the classifications of certain printed matter. It is provided for the convenience of taxpayers to help them meet their obligations under the law. Any person who acts consistently with this Ruling need not seek confirmation of the classification of a particular item of printed matter from the Australian Taxation Office.

Two important principles used throughout this Ruling

The ordinary meaning of words

- 1.5 Where there is no definition given in the sales tax law of a word or expression that is used, then the ordinary or normal meaning of the word should be applied.² Usually,

¹. See Item 27 in Schedule 1 to the ST (E&C) Act.

². This is a well established rule of statutory interpretation. If the ordinary or normal meaning of words leads to an absurdity or inconsistency with the context in which they appear then that ordinary meaning may be modified.

this means referring to current dictionary definitions.³ The application of dictionary definitions must, in all circumstances, be guided by popular usage and common knowledge.⁴ Trade or scientific meanings of words are not normally preferred to the ordinary meanings.⁵

The essential character of the printed matter

- 1.6 When classifying goods, it is necessary to start by identifying the goods in an objective way.⁶ Objective identification involves questions of fact, guided by popular usage and common knowledge.⁷
- 1.7 'What is necessary is to determine, objectively, the essential character of the publication, to determine what the publication is designed to achieve; what it does.'⁸ The essential character of goods derives from the basic nature of the goods, not some characteristic they might have. This may involve, among other things, a consideration of what the goods are made of or what they might be used for.⁹
- 1.8 The essential character of printed matter is not determined by the subjective intention of the publisher or the motivation of those who use the publication. Neither the actual intentions of the publisher, nor the particular description given to the goods by the publisher or others, are necessarily conclusive.¹⁰ However, the nature of the trade in which a publication circulates or the function that it serves in that trade may be relevant.¹¹

Chapter 2: Date of effect

- 2.1 This Ruling is effective immediately. It replaces private rulings that are inconsistent with it from 10 March 1998. However, if a person will pay less tax because of this

³. Courts have shown a preference for Australian dictionaries, normally *The Macquarie Dictionary*. In this Ruling the definitions from this dictionary are used, unless otherwise stated.

⁴. See *Case 48/96* 96 ATC 470; *AAT Case 11,138* (1996) 33 ATR 1156.

⁵. See *Herbert Adams Pty Ltd v. FC of T* (1932) 47 CLR 222; *Feltex Commercial Interiors Pty Ltd trading as Co Design v. FC of T* 90 ATC 4925; (1990) 21 ATR 920; *Nomad Industries of Australia Pty Ltd & Anor v. FC of T* 86 ATC 4036; (1986) 17 ATR 193. See also *Zeroz Pty Ltd v. DFC of T* 97 ATC 4277; (1997) 35 ATR 349.

⁶. Sales Tax Ruling ST (NS) 4: 'A guide to the classification of goods for sales tax purposes' explains the steps to classification in more detail. Note that a new Sales Tax Ruling on the classification of goods for sales tax purposes is currently being prepared to incorporate legislative changes and recent court decisions.

⁷. See the remarks of Stephen J in *Rotary Offset Press Pty Ltd v. DFC of T* 72 ATC 4212 at 4213; (1972) 3 ATR 319 at 320.

⁸. Per Hill J in *ACP Publishing Pty Limited v. FC of T* 93 ATC 4773 at 4778; (1993) 26 ATR 456 at 461.

⁹. See *Thomson Australian Holdings Pty Ltd & Ors v. FC of T* 88 ATC 4916; (1988) 19 ATR 1896.

¹⁰. See *ACP Publishing Pty Limited v. FC of T* 93 ATC 4773; (1993) 26 ATR 456.

¹¹. See *Thomson Australian Holdings Pty Ltd & Ors v. FC of T* 88 ATC 4916; (1988) 19 ATR 1896.

Ruling, it can be acted upon immediately. Nothing in this Ruling may be taken as automatically authorising a refund before the date of effect of the Ruling. Credit claims will be considered on their individual merits.

- 2.2 Sales Tax Ruling ST (NS) 3001 is withdrawn from the date of issue of this Ruling.

Chapter 3: Books, pamphlets, leaflets, periodicals, magazines or printed music

- 3.1 Subitem 100(1) in Schedule 1 to the ST(E&C) Act exempts printed matter that is a book, pamphlet, leaflet, periodical, magazine or printed music (referred to in this Ruling as 'exempt printed matter'). Subitem 100(2) lists a number of exclusions from exemption.¹² These specific exclusions are dealt with in **Chapter 4**.

Books

- 3.2 A book is a written or printed work of some length, as a treatise or other literary composition, especially on consecutive sheets fastened or bound together.¹³
- 3.3 For the purposes of the sales tax legislation, a 'book' is 'a collection of sheets of paper or other substance, blank, written, or printed, fastened together so as to form a material whole; which is portable.'¹⁴ Children's picture books printed on cardboard are examples of books consisting of material other than paper.
- 3.4 The following principles provide guidance in determining whether particular goods are books:¹⁵
- there must be a collection of sheets or pages, normally containing written or printed material;
 - the pages usually contain a work or a collection of materials of some length or substance;
 - the pages should be fastened or bound together in some reasonably substantial manner, so as to constitute a composite whole; and

¹². Item 100, Schedule 1 is reproduced in full at APPENDIX 1.

¹³. The central meaning from the definition of 'book' in *The Macquarie Dictionary*.

¹⁴. See *Uno Tech Pty Ltd v. FC of T* 94 ATC 2016; *AAT Case 9374* (1994) 28 ATR 1006. The Tribunal slightly modified the *Shorter Oxford English Dictionary*, 3rd ed, definition by adding the words 'which is portable' to that definition.

¹⁵. See the remarks of Olsson J in *Casley-Smith & Ors v. F S Evans & Sons P/L and District Council of Stirling (No 4)* (1988) 49 SASR 339.

- a collection of single written, printed photographic or artistic materials may be a book when appropriately bound, if the collection constitutes a composite whole by reason of having some connecting theme.

Electronic books

- 3.5 The exemptions in Chapter 10 of Schedule 1 to the ST (E&C) Act apply only to printed matter, so that electronic books are not exempt under subitem 100(1). Additionally, electronic books do not come within the dictionary definition or the common understanding of the term 'book'.¹⁶

Loose-leaf publications

- 3.6 In order to satisfy the principles set out in paragraph 3.4, loose-leaf publications must constitute an integrated whole, sequentially arranged so that the permanent removal of any loose leaf would, in fact, destroy the integrity of the publication.¹⁷
- 3.7 Loose-leaf printed matter that is a book should be complete in itself to begin with, but may still require updating. These types of books have certain characteristics. For example, they contain a binder and material for insertion, and the pages are usually numbered and indexed. They make up a complete composite publication, although new material may be added or existing material replaced from time to time.
- 3.8 Loose leaves that contain replacement or additional information for insertion into existing exempt books, when supplied under an agreement to purchase an up-to-date reference source, are exempt. These updates form an integral part of the exempt book and do not require separate consideration for sales tax purposes.
- 3.9 A loose collection of material filed in a folder does not automatically become a book. For example, a loose-leaf folder containing a progressive collection of notices and filed in a ring binder is not regarded as a book even if the leaves are numbered sequentially. Folders or similar goods designed to file together a variety of printed material, added in a piecemeal fashion, would not generally be regarded as books since at no point can they be said to be complete.

Covers and binders for books

- 3.10 Covers and binders that are sold with printed matter, used to bind together the printed matter and sold as one product in the course of an assessable dealing, are taxable at the same rate as the printed matter. Where the covers or binders are sold separately or as replacements, they are not exempt printed matter as there is no specific exemption for parts of books.

¹⁶. See *Uno Tech Pty Ltd v. FC of T* 94 ATC 2016; *AAT Case 9374* (1994) 28 ATR 1006.

¹⁷. See *Re Professional Teaching Publications and Collector of Customs* (1991) 25 ALD 149.

*Pamphlets and Leaflets***General characteristics of pamphlets and leaflets**

3.11 Pamphlets and leaflets have the following general characteristics:

- they contain information aimed at general distribution.¹⁸ (A district or a section of the public would qualify as general distribution; however, a select finite group, such as members of a club, would not.) The courts, in looking at the expression 'section of the public' have stated:

'A club, a literary society, a trade union may all have numerous members, but ... none of these could properly be called a section of the public. They stand on the other side of the line. The distinguishing feature of these latter bodies is that it is an association which takes power to itself to admit or exclude members of the public according to some arbitrary test which it sets up in its rule or otherwise. Each of them does oppose a bar to admission within it. It is not one of the groups into which the community as a matter of necessary organisation or by convention is divided, but it is in a sense an artificial entity which exists for the benefit of its members as members thereof and not as members of the public.'¹⁹

- they are normally complete in themselves, that is, the information contained in them stands alone; and
- they are made of paper that is not more than 250 grams per square metre (gsm). (The agreed definition provided by the paper industry is that a product with a thickness of more than 250 gsm is cardboard.)

Pamphlets

3.12 A pamphlet is a short treatise or essay, generally controversial, on some subject of temporary interest, or a complete publication of generally less than 80 pages, stitched or stapled and usually enclosed in paper covers. A pamphlet occupies fewer pages than a book. It is composed and issued as a separate work; always unbound.²⁰

3.13 A pamphlet is a document that is contained in itself; it is a 'one-off'. A pamphlet would ordinarily be available publicly whether or not on payment of a fee. In other words, the very essence of a pamphlet is that it is available to the public at large and availability is not limited.²¹

3.14 Other terms are sometimes used in place of 'pamphlet'. These products also meet the guidelines for exemption under subitem 100(1). They are defined by *The Macquarie Dictionary* as follows:

¹⁸. See *Case 48/96* 96 ATC 470; *AAT Case 11,138* (1996) 33 ATR 1156.

¹⁹. See the comments of Lowe J in *Re Income Tax Acts (No 1)* [1930] VLR 211. The High Court approved these comments in *Thompson & Anor v. Federal Commissioner of Taxation* (1959) 102 CLR 315.

²⁰. Definitions from *The Macquarie Dictionary* and the *Shorter Oxford English Dictionary*.

²¹. See *Case 48/96* 96 ATC 470; *AAT Case 11,138* (1996) 33 ATR 1156.

brochure - a booklet, or piece of folded paper, containing printed advertising or information; and

booklet - a little book, especially one with paper covers.

Leaflets

3.15 Leaflets are small sheets of paper,²² flat or folded into leaves, as for distribution, but not stitched. Leaflets contain printed matter, chiefly for gratuitous distribution.²³

3.16 The word 'leaflet' connotes an item sent through the post or deposited in a mailbox or handed out on the street. It is generally free, and public in the sense that it is made available to the public or a section of it.²⁴

3.17 Other terms sometimes used in place of 'leaflet' are defined by *The Macquarie Dictionary* as follows:

flier (flyer) a small leaflet;

handbill a small printed bill or announcement, usually for distribution by hand; and

dodger a small handbill.

Periodicals

3.18 A periodical is a magazine, journal, etc., issued at regularly recurring intervals.²⁵ Periodicals generally offer continuity; they would appear under the same title and usually have edition numbers.

Magazines

3.19 A magazine is a periodical publication, usually bound and with a paper cover, containing miscellaneous articles or pieces, in prose or verse, often with illustrations.²⁶

Printed music

3.20 Printed music is the written or printed score of a musical composition.²⁷

²². See *Case 57/95* 95 ATC 464; *AAT Case 10,523* (1995) 32 ATR 1001.

²³. Definitions from *The Macquarie Dictionary* and the *Shorter Oxford English Dictionary*.

²⁴. Refer *Case 48/96* 96 ATC 470; *AAT Case 11,138* (1996) 33 ATR 1156.

²⁵. The central meaning from the definition of 'periodical' in *The Macquarie Dictionary*.

²⁶. The central meaning from the definition of 'magazine' in *The Macquarie Dictionary*.

²⁷. Definition from *The Macquarie Dictionary*.

Printed matter that is not exempt under subitem 100(1)

3.21 The following types of printed matter are not exempt under subitem 100(1) as they do not have the essential character of exempt printed matter:

- circulars;
- newsletters (other than periodicals);
- stationery; and
- wall charts, posters, cardboard and stickers.

These classes of goods are discussed below.

Circulars

3.22 A circular is printed matter that is a notice, advertisement, statement or communication to a restricted audience. Examples of circulars are communications to member clubs from an industry association of clubs, or to members of a club from the club itself, advices to shareholders from a company and notices to individual members of the public seeking support for a particular purpose or campaign. Circulars are not leaflets or pamphlets because they are not for general distribution, but are aimed at a particular or restricted audience.²⁸

Newsletters (other than periodicals)

3.23 A newsletter is an informal bulletin, such as one circulating among people with a common interest.²⁹ A newsletter does not have the essential character of a pamphlet because it is not available to the public at large but is issued to a particular or restricted audience. However, a newsletter, viewed objectively, may be a periodical (see paragraph 3.18).

Stationery

3.24 Stationery is printed matter that is incomplete, allowing for the insertion of details such as name, address or other personal details.

3.25 Stationery in book form is specifically excluded from exemption by subitem 100(2) (see paragraph 4.20). Single sheet stationery does not satisfy the criteria for leaflets and pamphlets, as it is not complete in itself, and as such is not exempt under subitem 100(1).

3.26 Certain printed matter, such as insurance policies, loan and credit applications and other commercial publications, may have the essential character of stationery. The sales tax classification of such printed matter may differ depending on the essential character of the document when viewed as a whole. This type of printed matter is

²⁸. See *Case 48/96* 96 ATC 470; *AAT Case 11,138* (1996) 33 ATR 1156.

²⁹. The central meaning from the definition of 'newsletter' in *The Macquarie Dictionary*.

often (but not always) in booklet or pamphlet form and often contains two parts. The first part sets out the terms and conditions of the policy, loan or credit application, etc., and the second part is known as the application or proposal form. As a guide to the classification of this category of printed matter, the sales tax classification of insurance policy documents is set out below.

Insurance policies**3.27 Application form - on its own**

Where the application form stands alone, that is, it is not attached to the general terms and conditions booklet or pamphlet so as to form part of that insurance policy, it is taxable as stationery because it is incomplete, allowing for the insertion of details.

3.28 Information booklet or pamphlet containing terms and conditions of a policy - on its own, without an application form

Where printed matter simply conveys technical or legal information regarding the terms and conditions of a policy, does not contain an application form, and is not advertising matter (refer paragraphs 4.2 to 4.13), the printed matter is exempt under subitem 100(1).

3.29 Information booklet or pamphlet containing terms and conditions of a policy with application form attached so as to form a complete item of printed matter

The attachment or inclusion of an application form to the general information booklet or pamphlet that covers the terms and conditions of an insurance contract, may alter the essential character of the booklet or pamphlet. Where the application form is attached by perforation or is glued, sewn or stapled and requires the information contained in the booklet or pamphlet to be read before the form is completed and signed, the complete product takes on the character of legal stationery, which is taxable. This is because the purpose of combining the terms and conditions with the application or proposal form is to form the basis of a contract of insurance. The whole document - that is, the application or proposal form and the terms and conditions - forms the contract of insurance.

3.30 Where the printed matter contains some stationery component that is incidental to, or independent of the main body of the printed matter, such as a slip included in the printed matter to be sent away for further information, the inclusion of the stationery component does not change the essential character of the printed matter.**Wall charts, posters, cardboard and stickers****3.31** These goods do not qualify for exemption under subitem 100(1) as they do not have the essential character of exempt printed matter.