


# ***STD 1999/6 - Sales tax: classification of instructional materials - valuation of instructional materials***

 This cover sheet is provided for information only. It does not form part of *STD 1999/6 - Sales tax: classification of instructional materials - valuation of instructional materials*

This document has been Withdrawn.

There is a [Withdrawal notice](#) for this document.

---

# Sales Tax Determination

---

## **Sales tax:** classification of instructional materials - valuation of instructional materials

### **Preamble**

This document is a ruling for the purposes of section 77 of the *Sales Tax Assessment Act 1992* and may be relied upon by any person to whom it applies.

### **Background**

1. This Determination replaces the earlier Australian Taxation Office (ATO) view, set out in Sales Tax Determination STD 96/4, on the sales tax treatment of instructional materials, as a result of the decision of the Full Federal Court in *FC of T v. Myer Stores Limited*.<sup>1</sup> It provides advice on how instructional materials should be classified for sales tax purposes. It also provides a basis for determining the value attributable to instructional material that is exempt from sales tax under Item 100 in Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992* (ST(E&C) Act) in cases where the material is packaged together with other goods and sold for one inclusive price.
2. For the purposes of this Determination, 'instructional materials' are identifiable, separate goods in the form of manuals, books, videos, audio tapes, leaflets, pamphlets or other material providing instructions on the assembly, operation, maintenance, care or safety of the goods with which the instructional material is packed. The expression does not include other material commonly packed with goods, such as warranty cards, parts and accessory lists, or material advertising the manufacturer or its products. Nor does it include containers that have instructions relating to goods that are packed in them, printed directly on their inner or outer surfaces.
3. Manuals supplied with new motor vehicles with a gross vehicle mass of 7.5 tonnes or less, are excluded from the scope of this Determination. The taxable value of these vehicles is determined in accordance with an industry agreement<sup>2</sup> made under section 43 of the *Sales Tax Assessment Act 1992* (STAA). The value of the manuals is included in the

---

<sup>1</sup> 98 ATC 4384; (1998) 38 ATR 447.

<sup>2</sup> Sales Tax Determination STD 98/1 and two addenda set out the details of this industry agreement.

non-taxable component of the vehicles' prices and already excluded from their taxable value.

## Issues

4. How should instructional material packed or secured with other goods be classified for sales tax purposes?
5. What value is attributable to instructional material in cases where it is packaged with other goods and sold for one inclusive price?

## Decision

6. Instructional material, packed or secured with goods to which it relates, is classified separately from those goods, on the basis of the essential character of the particular instructional material. For instance, if the material takes the form of a book, manual, pamphlet or leaflet and, on the basis of its essential character, would be classified as exempt from sales tax under Item 100 in Schedule 1 to the ST(E&C) Act,<sup>3</sup> it is exempt from sales tax. However, if, for instance, the material is a video or audio cassette, it is taxable at the general rate under Schedule 4 to the ST(E&C) Act (currently 22%).

7. The value of instructional material is not included in the taxable value of the goods to which it relates. Where it is sold with other goods for one inclusive price, it may be necessary to apportion the price as follows, if it is exempt from sales tax or taxable at a different rate to that of the other goods:

- if the parties to the sale have not allocated a particular amount to the instructional material, the value attributable to the instructional material is the price for which it could reasonably be expected to have been sold if sold separately;<sup>4</sup> or
- if the selling price of the bundle, i.e., the relevant goods and the instructional material, is less than the sum of the individual prices of the goods, in the absence of evidence to show a better method of apportionment, the value of all the goods in the bundle should be discounted in proportion to the discount allowed for the whole bundle.

8. In addition to these broad principles, the ATO recognises that most instructional materials are books, pamphlets or leaflets that may be exempt from sales tax under Item 100 in Schedule 1 to the ST(E&C) Act. We have, therefore, provided a Safe Harbour<sup>5</sup> to help taxpayers determine the value attributable to such instruction manuals, so their value can be excluded from the total taxable value of the combined bundles in which they are included. Taxpayers may use this Safe Harbour, which is set out below, provided **all** of the following conditions exist:

---

<sup>3</sup> Taxation Ruling SST 8 *Sales Tax: classification of printed matter*, Chapters 3 and 4, provides the ATO view on the classification of printed matter under Item 100.

<sup>4</sup> Subsection 95(1) of the STAA.

<sup>5</sup> A Safe Harbour is a practical basis for calculating value in respect of particular dealings that the ATO accepts as completely satisfying the taxpayer's sales tax obligations in relation to those dealings.

- the instruction manuals are, as a question of fact, actually included with the goods sold;
- the instruction manuals are identifiable as separate goods, distinct from the goods to which they relate or the containers in which those goods are sold;
- the instruction manuals are printed matter in the form of books, leaflets or pamphlets that, considered by themselves, would be exempt under subitem 100(1) in Schedule 1 to the ST(E&C) Act and not excluded under subitem 100(2);
- one inclusive price is charged for the goods and the instruction manuals;
- the parties to the sale have not allocated a particular amount as representing that part of the price that is attributable to the instruction manuals; and
- the instruction manuals are instructional materials within the parameters stated in the '**Background**' section of this Determination, and are not goods specifically excluded from its scope.

9. The Safe Harbour is as follows:

**The value of instruction manual(s) included with goods is equal to:**

*The lesser of*

2.0% of the first \$500 of the gross taxable value of a bundle including one or more manuals

*Plus*

0.75% of every dollar by which the gross taxable value of the bundle exceeds \$500

*Or*

Fifteen dollars (\$15) on any bundle.

10. It should be noted that the Safe Harbour amount and the ceiling amount of fifteen dollars (\$15) is a 'per bundle' amount, not a 'per manual' amount. It is the total amount accepted under the Safe Harbour as the value of **all** exempt instruction manuals included with the goods to which they relate, irrespective of the number of manuals in the bundle.

11. It is not mandatory to apply the above Safe Harbour. However, a taxpayer who elects to use it to determine the value of any exempt instruction manual must apply it to all transactions with all instruction manuals where the conditions for the application of the Safe Harbour are met.

**Date of effect**

12. This Determination is effective immediately and replaces any previous public or private rulings to the extent that they are inconsistent with this Determination. In particular, this Determination replaces Sales Tax Determination STD 96/4 *Instructional material packaged with goods*, which is withdrawn with effect from the date of this Determination.

13. Nothing in this Determination may be taken as automatically authorising a refund before the date of effect of the Determination. Credit claims are considered on their individual merits.

**Reasons*****Treatment of instructional materials***

14. STD 96/4 was written on the premise that instructional material packaged and sold with other goods (the contents) was taxed at the same time and at the same rate as the contents under section 35 of the STAA because it was considered to be covered by paragraph (b) of the definition of 'container' in section 5 of that Act. 'Container' is defined to mean:

- '(a) packaging in which, or with which, any property ("the contents") is packed or secured, in the ordinary course of a business, for the purpose of the marketing or delivery of the contents;
- (b) ancillary items that are packed or secured with the contents and are intended, and reasonably necessary, to allow or facilitate the use of the contents;'

15. In *FC of T v. Myer Stores Limited*,<sup>6</sup> the Full Federal Court rejected this view, and held that instruction manuals sold with mobile phones and certain electrical appliances (refrigerators and mixers) were not covered by paragraph (b) of the definition of 'container'. Reasons given by the Court were:

- paragraph (b) applied to goods which were part of the process of packing or securing property in packaging and, on that basis, manuals were not containers but part of the contents of the container (Beaumont J);<sup>7</sup>
- the manuals were part of the contents of the packaging. A purchaser normally contracts to buy the contents, not the packaging. In the absence of an express term to the contrary, a manual is part of the property the subject of the contract of sale. As contents of a container, it is not possible for manuals to be ancillary items under paragraph (b) of the definition (Hill J);<sup>8</sup>
- the definition of container only extended to goods which are ancillary to the container, not goods ancillary to the contents.<sup>9</sup> The manuals were not ancillary to the containers. They played no role in the convenience or utility

---

<sup>6</sup> 98 ATC 4384; (1998) 38 ATR 447.

<sup>7</sup> ATC at 4389; ATR at 452.

<sup>8</sup> ATC at 4392; ATR at 456.

<sup>9</sup> ATC at 4398; ATR at 462.

of the packaging; instead, they facilitated the use of the relevant contents (Sackville J).<sup>10</sup>

16. The ATO accepts that the decision applies equally to other forms of instructional material such as video and audio tapes.

17. As instructional materials are not within the definition of ‘containers’, section 35 of the STAA does not apply to tax them at the same time and at the same rate as the goods to which they relate. The rate at which instructional materials are taxed is determined by their essential character. For example, video and audio cassettes are currently taxable at 22% under Schedule 4 to the ST(E&C) Act, while manuals in the form of books, pamphlets or leaflets may be exempt under Item 100 in Schedule 1 to that Act, provided that they meet the criteria for exemption.

18. Under most sale of goods contracts, instructional materials that are not exempt will still be taxed at the time the related goods are taxed.

### ***Valuation of the instructional materials***

19. In the majority of cases, instructional materials are special purpose goods that, by themselves, do not have a commercial value. They are an overhead expense that product manufacturers recover in their selling prices and which are passed on by subsequent wholesale and retail distributors in the marketing chain. When buying a product, a consumer pays a price for the product with the expectation that instructional material is supplied and included in the price at no extra charge, i.e., there is usually no separation in the contract to buy the product for one price and instructional materials for another price.

20. Section 95 of the STAA makes provision for situations where parties to a sale of goods have not allocated an amount to particular goods included in the sale. A pre-condition of section 95 is that there must be a need to know the price for which particular goods were sold. In the case of instructional materials, this ‘need to know’ clearly exists following the decision in *FC of T v. Myer Stores Ltd* that instruction manuals are not ‘containers’ but separate goods that are to be taxed separately according to their essential character.

21. Subsection 95(1) of the STAA operates to provide that the portion of a total product price to be attributed to instructional materials supplied with that product is the price for which the instructional materials could reasonably be expected to have been sold if they had been sold separately.

22. After the price of the material is worked out, the one inclusive price for both the main goods and the instructional material may be less than the sum of the prices of the individual goods in the package. In accordance with Taxation Ruling SST 6 *Sales Tax: taxable value*,<sup>11</sup> in the absence of a better method of apportionment, each of the taxable values should be discounted in proportion to the discount allowed for the total package.

---

<sup>10</sup> *Myer Stores Ltd v. FC of T* 97 ATC 4733 at 4736; (1997) 36 ATR 548 at 587 per Lockhart J as quoted by Sackville J in ATC at 4399; ATR at 463.

<sup>11</sup> See paragraph 1.12.

*Example*

23. A mower is sold for a total package price of \$500. However, if priced separately, the individual selling prices of the goods making up the package would be as follows:

Mower	\$475
Catcher	45
Fuel can	5
Manual	<u>10</u>
Total separate price	<u>\$535</u>

Percentage of package price to total separate price

$$(\$500 \div \$535) \times 100 = 93.45\%$$

$$\text{Value attributable to the manual} = \$10 \times 93.45\% = \$9.35 \text{ (rounded).}$$

*Safe Harbour for instruction manuals*

24. The ATO recognises that, in many cases, it may be difficult to determine the value of a particular instruction manual that is packed with goods and sold for one inclusive price. This is due to:

- the wide range of goods sold with manuals;
- the fact that many are manufactured overseas and the only meaningful costing records are with the manufacturer;
- the fact that most manufacturers recover the cost of producing an instruction manual as part of the total cost of manufacturing the principal product and do not generally charge separately for the manuals in their selling prices; and
- the difficulty distributors experience accessing product costing details from manufacturers.

25. The Safe Harbour arrangement cannot, and does not, claim to provide a basis for valuing the full range of instruction manuals in the market place. Rather, it is a concession to taxpayers enabling them to determine a value for an instruction manual or manuals in circumstances when it cannot be easily determined. They can then use the Safe Harbour to determine the amount that is to be excluded from the taxable value of the article with which it is sold. In doing so, they will have fully discharged their obligations under the sales tax legislation.

26. Because of the concessional nature of the Safe Harbour, a taxpayer seeking to rely on its terms must apply the relevant Safe Harbour value to all transactions with any instruction manual where the conditions for the application of the Safe Harbour are present.

27. To arrive at a Safe Harbour value for instruction manuals, the ATO examined submissions and sample costing data submitted by industry representatives.

28. The Safe Harbour value is set out in paragraph 9 this Determination. It applies only to those goods that meet **all** of the conditions for the use of the Safe Harbour as set out in paragraph 8 of this Determination.

29. The decision on the formula set out in the Safe Harbour was influenced by a number of factors, namely:

- the large number and range of products sold with instruction manuals;
- the wide variety of types of manuals - ranging from small fold-out leaflets, to stapled booklets and bound books;
- the lack of substantive evidence in the sample data examined of a correlation between the price of products and the value of the associated instruction manuals, i.e., some quite expensive products have inexpensive instruction manuals, and vice versa; and
- the fact that most manuals are specific purpose goods that, by themselves, have less commercial value than general printed matter of a similar standard produced for sale.

30. It is recognised that, in lower priced products, the overhead cost of an instruction manual is likely to be proportionately higher in relation to price than in the case of more expensive products.

31. Accordingly, a higher rate is set for the first \$500 of a product's taxable value, with a lower rate applying to every dollar by which the taxable value exceeds \$500. This formula is then subject to a dollar ceiling amount of \$15 per product bundle.

### ***Examples***

32. An instruction manual is included with a chainsaw sold by wholesale for one inclusive price of \$450. The Safe Harbour value of the manual is 2% of \$450, which equals \$9.

33. A mower is sold by wholesale for \$700, an all-inclusive price that includes an instruction manual. The Safe Harbour value of the manual is 2% of \$500 (\$10), plus 0.75% of \$200 (\$1.50), that is, a total of \$11.50.

34. A television set, complete with instruction manual, is sold by wholesale for an inclusive price of \$1,500. If the percentage formula is applied, the result is \$17.50. However, this is greater than the \$15 maximum ceiling amount, so the Safe Harbour value of the manual, in this case, is \$15.

35. An office photocopier is sold by wholesale for \$10,000. Included in the price are three instruction manuals on different aspects of the machine's operation. The Safe Harbour value of the manuals is the maximum ceiling amount, \$15.

### **Commissioner of Taxation**

3 November 1999

---

#### *Related Rulings/Determinations:*

STD 98/1; SST 6; SST 8

#### *Subject references:*

instructional materials; packed or secured with goods; sales tax; taxable value



*Legislative references:*

STAA 5; 35; 95

ST(E&C)A Sch 1, item 100; Sch 1, subitem 100(1); Sch 4

*Case references:*

FC of T v. Myer Stores Ltd 98 ATC 4384; (1998) 38 ATR 447; Myer Stores Ltd v. FC of T 97 ATC 4733;  
(1997) 36 ATR 548

---

ATO references:

NO 99/2968-1

BO

FOI Index Detail: I 1020845

ISSN: 1038 - 8982