

STD 96/1 - Title: Classification: meaning of bric-a-brac



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Sales Tax Determination

Title: **Classification:** meaning of bric-a-brac

Background

Under *sub-item 1(1)* in *Schedule 2* to the *Sales Tax (Exemptions and Classifications) Act 1992* (*E&C Act*) a range of goods of a kind ordinarily used for household purposes is taxed at the concessional rate, which is currently 12%. However, as announced in the 1995 Federal Budget, goods known as *bric-a-brac* are specifically excluded from this *sub-item*.

This determination sets out the Australian Taxation Office (ATO) view on how the *bric-a-brac* exclusion operates.

Note: *Item 1* of *Schedule 2* is reproduced in full as an Appendix on pages 4 and 5.

Issue

- What is *bric-a-brac*?
 - How does the exclusion for *bric-a-brac* in *sub-item 1(1)* of *Schedule 2* to the *E&C Act* apply?
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Decision

- *Bric-a-brac* refers to miscellaneous ornaments and articles of antiquarian, decorative, or other interest.
- The *bric-a-brac* exclusion is expressed to apply to all the paragraphs in *sub-item 1(1)* of *Schedule 2*; however, for reasons mentioned below it only has practical application to paragraphs *1(1)(a)*, *1(1)(b)*, *1(1)(d)* and *1(1)(e)*.

NB: second hand goods of Australian origin which are *bric-a-brac* are not subject to sales tax.

Date of effect

This determination reflects changes in the sales tax law that came into effect on 9 May 1995. It replaces any previous taxation rulings to the extent that they are inconsistent with this determination. If a person has been acting on the basis of any such previous ruling, they have until 30 April 1996 to comply with this determination.

Reasons

We have based our decision on the following legislative provision:

Item 1 in Schedule 2 to the Sales Tax (Exemptions & Classifications) Act 1992

In recent years it has been suggested by various taxpayers' advisers that some small miscellaneous and ornamental goods are furniture of a kind ordinarily used for household purposes and therefore taxable at the concessional rate applicable under *sub-item 1(1)* in *Schedule 2* to the *E&C Act*.

It is the ATO view that the term *furniture* in the context of *sub-item 1(1)* was never intended to include ornaments and small miscellaneous goods. This policy intention was confirmed by the Government with the announcement in the 1995 Federal Budget of the insertion in *Schedule 2* of *paragraph 1(3)(h)* excluding *bric-a-brac* from the concessional rate.

As defined in the Macquarie Dictionary, *bric-a-brac* refers to *miscellaneous ornamental articles of antiquarian, decorative, or other interest*. This definition includes not only purely ornamental goods such as figurines, glass objects and certain pottery and crockery pieces, but also small utilitarian goods with a significant ornamental character, such as jewellery boxes, other storage boxes, doorstops, bookends and ashtrays.

The exclusion for *bric-a-brac* is expressed to apply to all the paragraphs in *sub-item 1(1)* of *Schedule 2*; however, because of the nature of the goods mentioned in many of the paragraphs of the sub-item, the exclusion has a more limited practical effect. For example, it is difficult to see how the exclusion for *bric-a-brac* could apply to *paragraph 1(1)(i)* which covers washing machines and similar goods.

Furthermore, the generally accepted rule of statutory interpretation, *generalia specialibus non derogant*, means that where there is a conflict between specific and general terms of an Act, the specific will prevail.

Accordingly, the general exclusion for *bric-a-brac* will not affect the paragraphs in the sub-item which specify that particular goods are entitled to concessional treatment. For example, the *bric-a-brac* exclusion will not override the specific concessions for candlesticks under *paragraph 1(1)(o)* or vases under *paragraph 1(1)(q)*.

Goods that fall for consideration under a paragraph that describes the goods covered by the concessional rate in general terms, such as *paragraph 1(1)(a)* dealing with furniture, will be affected by the *bric-a-brac* exclusion. Therefore, ornamental or decorative goods such as jewellery boxes, other storage boxes, door stops, bookends and ashtrays (which may be considered by some people to be furniture), will be excluded as *bric-a-brac*. Similarly, decorative or collectors' plates that may be considered for classification under *paragraph 1(1)(b)*, which covers goods of a kind ordinarily used in connection with preparing, serving or consuming food or beverages, will also be excluded.

For these reasons the exclusion for *bric-a-brac* only applies to the paragraphs listed in the decision, namely *1(1)(a)*, *1(1)(b)*, *1(1)(d)* and *1(1)(e)*.

Communication of the Decision

This determination has been made available for publication by the sales tax publishing houses and will be provided to sellers of these goods who are registered as sales taxpayers with the ATO.

Commissioner of Taxation
6 March 1996

FOI Index Detail: I 1218113

Related Determinations:

Related Rulings:

Subject Ref: bric-a-brac

Legislative Ref: Sales Tax (Exemptions & Classifications) Act 1992 Item 1, Sub-item 1(1), Sub-item 1(1) Paragraphs 1(1)(a), 1(1)(b), 1(1)(d) 1(1)(e), 1(1)(i), 1(1)(o), 1(1)(q) and 1(3)(h) of Schedule 2

Case Ref:

ATO Ref: NAT 96/1504-1

APPENDIX***Item 1: [Goods of a kind ordinarily for household purposes]***

(I) The following goods of a kind ordinarily used for household purposes:

- (a) furniture, but not including:
 - (i) pictures or picture frames;*
 - (ii) statuary or sculptures;*
 - (iii) plaques, medallions, medals, inlays or mosaics;*
 - (iv) tapestries;*
 - (v) cameos, or representations of mottoes, proverbs or verses;**
- (b) goods of a kind ordinarily used in connection with preparing, serving or consuming food or beverages;*
- (c) cutlery sharpeners;*
- (d) goods of a kind ordinarily used in connection with cooking, preserving or storing food or beverages;*
- (e) appliances of a kind ordinarily used for, or in connection with, cooling or freezing food;*
- (f) goods of a kind ordinarily used in, or in connection with, room heating, including fire grates and fireplaces;*
- (g) air conditioners of a kind ordinarily used for air cooling;*
- (h) electric fans;*
- (i) washing machines and other appliances of a kind ordinarily used in, or in connection with, laundering clothes;*
- (j) vacuum cleaners, carpet sweepers, dishwashers and other implements and appliances of a kind ordinarily used for cleaning purposes;*
- (k) brooms, mops, dusters, brushes, buckets and basins;*
- (l) sewing machines, knitting machines, spinning wheels, weaving looms and carding equipment;*
- (m) floor coverings and bath and door mats;*
- (n) appliances for lights and light fittings;*
- (o) candlesticks, candles and tapers;*
- (p) blinds and awnings;*
- (q) jardinieres, planters and vases;*
- (r) incinerators, compost bins, garbage bins and stands and holders for garbage sacks;*
- (s) kitchen utensils and hardware;*

(t) *clothes pegs, clothes lines, linen baskets and laundry bags;*

(u) *mattresses, pillows, cushions and other bedding.*

(2) *Goods marketed principally as parts, fittings or accessories for goods covered by sub-item (1).*

(3) *This Item does not cover:*

(a) *goods covered by an Item in Schedule 5;*

(b) *goods of a kind ordinarily used in sport or games;*

(c) *goods designed for use principally in, or in connection with, swimming pools or spa baths;*

(d) *duct work, or channelling, of a kind used in forced-draught ventilating or air-conditioning systems;*

(e) *any of the following goods for duct work or channelling of a kind ordinarily used in forced-draught ventilating or air-conditioning systems:*

(i) *fittings, accessories or attachments for the duct work or channelling;*

(ii) *components for the duct work or channelling;*

(iii) *goods designed to form part of the duct work or channelling.*

(f) *safes, including of a kind ordinarily installed as fixtures, but not including of a kind ordinarily used for the storage of food;*

(g) *musical instruments;*

(h) *bric-a-brac.*