


# ***ST 2435 - SALES TAX : FLOOR COVERINGS***

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TAXATION RULING NO. ST 2435

SALES TAX : FLOOR COVERINGS

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
1010778	DOMESTIC & INDUSTRIAL/ COMMERCIAL FLOOR COVERINGS AND MATTING	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; SUBPARAGRAPH 1(1), THIRD SCHEDULE

OTHER RULINGS ON THIS TOPIC : ST 2296

PREAMBLE This Ruling considers the sales tax classifications of vinyl and rubber floor coverings. Vinyl and rubber floor coverings which are of a kind ordinarily used for household purposes are covered by subparagraph (1) of item 1 in the Third Schedule, and are taxable at 10%. Vinyl and rubber floor coverings not covered by subparagraph 1(1) are taxable at the general rate, currently 20%.

FACTS 2. Many kinds of vinyl and rubber floor coverings are used in domestic homes and the residential areas of hospitals, homes for the aged and disabled persons and the like. Those floor coverings include kinds supplied in sheet or roll form and in squares, tiles and other shapes. They are commonly identifiable because they are particularly suitable in design, composition, and appearance for use in household settings and are marketed for such uses. In practice they are used primarily in household settings. Generally these kinds of floor coverings are distinguishable from floor coverings that have particular features and are marketed as suitable for use in industrial and commercial premises and other premises such as gymnasiums.

3. From information provided by industry representatives, marketing brochures, product descriptions and compositions, the following characteristics are commonly found in the lines of vinyl and rubber floor coverings that are designed and marketed for use primarily, and in some cases exclusively, for commercial or industrial purposes:

- (a) static reduction;
- (b) non-slip safety design (including raised or studded treads);
- (c) bacteria, chemical, heat, oil, fat or stain resistant;
- (d) extra heavy duty, suitable for fork lift and roller traffic;
- (e) heavy duty, hard wearing, suitable for factories, warehouses, walkways, shopping centres, airports, railways, etc.;

- (f) smoke inhibitors to reduce smoke emission in case of fire and to reduce toxicity;
- (g) coverings marketed specifically for commercial/industrial use or, alternatively, marketed as "not recommended" for domestic residential use; and
- (h) homogeneous construction where the sheets and tiles are composed of the same compound throughout.

4. The presence of one or more of these characteristics in a line of vinyl or rubber floor covering could indicate that it would be used for commercial, industrial etc., purposes. Other factors such as sales patterns and actual uses are also relevant as a guide to sales tax classification.

5. However, the fact that some vinyl or rubber floor coverings contain one or more of the properties outlined in paragraph 3 above is not conclusive of the classification of those coverings. Some lines of vinyl and rubber floor coverings that have one or more of the properties listed in paragraph 3 are used significantly in domestic homes and more particularly in residential areas of hospitals, homes for the aged and disabled, etc., and therefore would be regarded as being a floor covering of a kind ordinarily used for household purposes.

#### RULING

6. Not all vinyl or rubber floor coverings are goods of a kind ordinarily used for household purposes, covered by subparagraph (1) in item 1 in the Third Schedule. Those lines which are either not used at all, or are rarely used, in domestic homes or residential areas of hospitals, rest homes, etc., are not ordinarily used for household purposes and are taxable at 20%.

7. It has been suggested that the decision in *Hygienic Lily Ltd. v Deputy Commissioner of Taxation* 87 ATC 4327, 18 ATR 619 has the effect of bringing all vinyl or rubber floor coverings, whatever their design, composition, description, use etc., within the ambit of item 1 in the Third Schedule. In that case, it was held that certain paper cups used almost exclusively by a fast food retailer were goods of a kind ordinarily used for household purposes. However, paper cups, as a genus of goods, could be equally used in the home and elsewhere. It does not follow from that decision that, just because many lines of vinyl or rubber floor coverings are ordinarily used for household purposes, every line of vinyl or rubber floor covering (including, for example, the heavy industrial coverings used solely or essentially in factories, walkways, etc.) is covered by item 1 in the Third Schedule.

8. It is appropriate to also consider the comments of Olney J. in *Commissioner of Taxation v Sherwood Overseas* 85 ATC 4267; 16 ATR 473. That case also dealt with the interpretation of item 1, Third Schedule, and on general interpretation principles His Honour observed :-

"... it is however important to determine the relationship between the general words appearing at the head of the first item of the Third Schedule and the specific descriptions of goods which follow in the various numbered subparagraphs. The general words and the particular are of course separated by the word "namely" which suggests that the descriptions

which appear in the numbered subparagraphs are an exclusive definition of the goods covered by the item .....  
Many, if not most of the goods that are described have an application in industrial or commercial contexts as well as within the household. The item clearly does not refer to office furniture, commercial refrigerators, industrial vacuum or air conditioners designed for use in a public hall."

There is, therefore, judicial support for the view that not all the classes of goods specified in the subparagraphs of item 1 are necessarily goods of a kind ordinarily used for household purposes. Goods that are of the commercial kind are clearly not covered by the general words at the head of item 1 even though they may be of the same broad description of goods that are specified in the various subparagraphs in item 1.

9. Vinyl and rubber floor coverings which are sold for use primarily in domestic homes and the residential areas of hospitals, rest homes, etc., are goods of a kind ordinarily used for household purposes. Ordinarily these coverings are of the kind sold by retailers of domestic floor coverings. They are covered by item 1 in the Third Schedule, taxable at 10%. The fact that a vinyl or rubber floor covering may have a property or properties described in paragraph 3(a), (b), (c), (f) or (h), would not necessarily prohibit it from being covered by item 1 in the Third Schedule. If the primary use is in the household and residential areas of other properties, the vinyl or rubber floor covering will be accepted as being of a kind used for household purposes.

10. In Taxation Ruling No. ST 2296 it was decided that the Altro Safety Flooring described was taxable at 20%. Although the product has some of the properties referred to in paragraph 3, it has since been established that it has a significant domestic application in private homes, particularly in homes of persons suffering from disorders such as multiple sclerosis. Accordingly, Taxation Ruling No. ST 2296 is amended to the extent that the Altro Safety Flooring is now accepted to be goods of a kind ordinarily used for household purposes. It is covered by item 1, Third Schedule, and taxable at 10%.

11. Effective from 1 September 1988 all vinyl or rubber floor coverings with characteristics referred to in paragraph 3 will be taxable at 20% unless sales of the covering point to it being used to a significant extent for household purposes.

12. Where a taxpayer is of the opinion that a particular line of vinyl or rubber floor covering with characteristics referred to in paragraph 3 is covered by the Third Schedule he/she should approach the local Taxation Office for a ruling. Evidence of the sales patterns to the householder domestic market, including the residential areas of hospitals, homes for the aged and disabled and the like as compared with total sales of that particular line should be provided to support a claim that the goods come within the Third Schedule.

COMMISSIONER OF TAXATION  
4 August 1988