

# ***SST 5 - Sales tax: classification of furniture, timber and joinery***



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## **Taxation Ruling**

### **Sales tax: classification of furniture, timber and joinery**

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*This document is a Public Ruling for the purposes of section 77 of the Sales Tax Assessment Act 1992. As a result, you may act upon the Ruling as if it had the force of law.*

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**Chapter 1: What this Ruling is about**

- 1.1 This Ruling explains the principles for determining the rate of sales tax payable on furniture, timber and joinery to assist furniture manufacturers, joiners, turners, shopfitters, cabinet-makers and wholesalers of new furniture apply the correct rate to the goods they deal with. The Ruling is expressed in non-technical language wherever possible. The footnotes refer to relevant court decisions and give details of the legislation that applies.

*General date of effect*

- 1.2 This Ruling alters all previous conflicting advice on the classification of furniture, timber and joinery from **1 February 1996**; however, if a person will pay less tax because of this 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.

*Special date of effect for Budget changes*

- 1.3 Legislative changes, such as those announced in the 1995/96 Budget, apply from the date of effect set out in the enacting legislation. For example, safes are excluded from Item 1 of Schedule 2 after 7.30 pm EST on 9 May 1995. As explained in SST Ruling No 1, when the sales tax law is changed, rulings based on the former law cease to be effective. The Budget changes are dealt with in more detail in Chapter 3.

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## Chapter 2: Exemption for timber and certain joinery and turnery

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### *Item 42: Timber*

2.1 Chapter 2 in Schedule 1 of the *Sales Tax (Exemptions and Classifications) Act 1992*<sup>1</sup> deals with Building Materials and contains a number of items that exempt building materials of different types. Roofing materials, metal building materials, glass, concrete and electrical fittings are some examples of the goods dealt with. Item 42 exempts *timber* and specified timber building materials. Although much of Item 42 is more relevant to builders than persons in the furniture industry, the exemption will affect some furniture manufacturers and cabinet-makers.

2.2 Item 42 exempts:

*Timber, including:*

- (a) *timber (other than joinery or turnery) that has been cut into lengths, trimmed or shaped at an end or ends, or mortised, tenoned, bevelled, chamfered, checked or bored;*
- (b) *floorings, linings, mouldings, weatherboards, parquet blocks, plywood, veneers and sawdust;*
- (c) *joinery and turnery of a kind ordinarily used as raw materials in the construction or repair of buildings or fixtures.*

2.3 *Timber* in Item 42 refers to the product of a tree, or wood after it is sawn, treated or otherwise reconstituted to produce goods of commercial value. It is not confined to natural timber, but includes products essentially made of wood or reconstituted wood tissue or fibre. For example, chipboard, particle board and fibre board are timber for the purposes of subitem 42(a), whether plain, veneered or laminated.

2.4 Exemption under subitem 42(a) depends on the particular goods retaining their identity as timber, rather than taking on the characteristic of a component for furniture or other goods. The way goods are marketed is relevant in determining their identity. For example, a pick handle made of wood is in one sense a piece of timber cut to a length and shaped at an end; however, it is described, marketed and priced as a pick handle and it is identifiable as a component for other goods (i.e., a

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1. Goods covered by Schedule 1 are exempt from sales tax. The current rates of tax used in this Ruling are: Schedule 2 - 12%, Schedule 4 - 22%, and Schedule 5 - 32%.

pick), rather than a piece of timber. The pick handle has lost its identity as timber and has a separate character. Similarly, other goods that are made of timber, but which are described, advertised and sold as goods in their own right (for example, as furniture parts) cannot be exempt under subitem 42(a)<sup>2</sup>.

- 2.5 Subitem 42(b) exempts specified timber building materials and by-products that might not ordinarily be regarded as having retained their identity as timber, for example, sawdust.
- 2.6 The interpretation of the first two paragraphs of Item 42 is therefore fairly straightforward. However, subitem 42(c) can cause some difficulty as several elements have to be satisfied before it applies. The following paragraphs explain subitem 42(c) and give examples of its application.

### *Elements of exemption under subitem 42(c)*

- 2.7 For goods to qualify for exemption under subitem 42(c) they must be essentially timber. Goods consisting of, say, metal or plastic as well as wood, will not be regarded as timber unless those other components are so minor that the accuracy of the description is not affected<sup>3</sup>.
- 2.8 If the goods are essentially timber, the other requirements are that:
- they meet the description of *joinery or turnery*; and
  - the joinery or turnery is of a kind ordinarily used as raw materials in the construction or repair of buildings or fixtures.

### **Joinery and turnery**

- 2.9 *Joinery* is the product of a craftsman who works in wood already cut into shape. A joiner is a worker in wood who constructs furniture or the fittings of houses<sup>4</sup>. Craftsmen who construct joinery may be described as joiners or cabinet-makers. *Turnery* refers to objects made or fashioned on a lathe.

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2. See the reasoning in **Case Y2** 91 ATC 104; (1990) 21 ATR 3843.

3. See **Case Y37** 91 ATC 368; (1991) 22 ATR 3305 - this case was appealed as **Precision Measures Limited v. FC of T** 92 ATC 4099; (1992) 23 ATR 30).

4. See the *Macquarie Dictionary*. The *Shorter Oxford Dictionary* defines joiner as 'a craftsman who constructs things by joining pieces of wood; a worker in wood who does lighter and more ornamental work than that of a carpenter'. The definition of joinery has been considered in **Case Y2** 91 ATC 104; (1990) 21 ATR 3843 and **Case Y37** 91 ATC 368; (1991) 22 ATR 3305. The distinction between the work of joiners and that of carpenters is of little significance for sales tax purposes as the timber used in heavier timberwork (such as bearers, joists and floors) regarded as carpenter's work would be exempt under subitems 42(a) and (b).

- 2.10 Joinery is broad enough to cover some goods that might ordinarily be described as furniture. As is explained in later paragraphs, furniture *of a kind ordinarily used as raw materials in the construction or repair of buildings or fixtures* can be exempt under subitem 42(c), whereas other furniture will be classified under Schedules 2 or 4.

**Of a kind ordinarily used as raw materials in the construction or repair of buildings or fixtures**

- 2.11 The phrase *of a kind ordinarily used* requires the joinery or turnery to be one of a class of goods commonly or routinely used as raw materials in the construction or repair of buildings or fixtures. The important question is not whether a particular kitchen cabinet, for example, is used as a raw material under subitem 42(c), but whether it belongs to a class of cabinets that are commonly used as raw materials under subitem 42(c).<sup>5</sup>

- 2.12 Raw materials used in constructing or repairing property are defined in this way:

*Goods are taken to be used as raw materials in constructing or repairing property if, and only if, the goods are dealt with in such a way in constructing or repairing the property that the goods, or some essential element of the goods, become an integral part of the property.*<sup>6</sup>

- 2.13 In this definition, the phrase *constructing or repairing* simply refers to building, and can extend to rebuilding and reconstruction<sup>7</sup> (which may involve renewal, renovation or remodelling).
- 2.14 Joinery may become a fixture when attached to a building, however, it is not exempt under subitem 42(c) merely because it is fixed or attached for convenience or as part of furnishing and equipping the buildings. The central question is whether the goods

5. See the comments of Hill J on the phrase *of a kind ordinarily used* in **Diethelm Manufacturing Pty Ltd v. FC of T** 93 ATC 4703; (1993) 26 ATR 465 and **FC of T v. Chubb Australia Limited** 95 ATC 4186; (1995) 30 ATR 301.

6. See subsection 7(2) of the *Sales Tax Assessment Act 1992*.

7. Refer to the judgment of Hill J in **FC of T v. Chubb Australia Limited** 95 ATC 4186; (1995) 30 ATR 301.

8. The distinction between goods that are integral to the building and those which merely fixed for convenience was explained by Kitto J in **DC of T v. Academy Plastics Pty Ltd** (unreported, 22 March 1956), cited with approval by the Federal Court in **Magna Stic Magnetic Signs Pty Ltd & Anor v. FC of T** 89 ATC 5000; (1989) 20 ATR 1237 by Wilcox J at 5005:

'Even if I had no assistance from evidence, I should think it sufficiently clear from an inspection of the article itself that it is not of a kind used in the construction or repair of a building. No one would ever think of such a thing, I am sure, except after the building was completed, and as a matter rather of furnishing and equipping the household than of adding to the building as a building.'

are of a kind used in the construction or repair of the building or fixture and so become an integral part of it.

### *Subitem 42(c) applied to examples*

#### **Classification of furniture built-in to buildings or fixtures**

- 2.15 Furniture does not meet the tests of subitem 42(c) simply because it is, or will be, fixed or built-in. The fact that a bookcase, bedside table, barstool or almost any other item of furniture can or will be fixed into a building with the intent that it remain in position for an indefinite or substantial period does not mean that these goods (or components of them) are of a kind used in the construction of a building or relevant fixture.
- 2.16 Some common examples of furniture to which exemption will not usually apply even if the goods become affixed are bedheads, bedside tables, bookcases, chairs (including bar stools), dressing table drawer units and luggage racks. Where exemption does not apply, these goods will be taxable at the Schedule 2 rate if they satisfy the description of household furniture (see Chapter 3), or at the Schedule 4 rate if they do not. Some 'built-in furniture' will qualify under subitem 42(c) and specific examples are dealt with in paragraphs 2.19 to 2.23.
- 2.17 In consultation with the housing and shopfitting industry bodies, the Taxation Office has developed some practical guidelines for determining which built-in furniture and shopfittings are exempt. Built-in furniture and shopfittings will be exempt as joinery and turnery of a kind ordinarily used as raw materials in the construction or repair of buildings or fixtures where they satisfy **all** the following guidelines:
- they are purpose built to fit and designed to become permanently affixed to a particular part of a particular building;
  - they are never completely finished in the workshop and are not offered for sale as items of freestanding furniture;
  - they need to be assembled, adjusted (to some extent) or fitted on the site of the installation; and
  - they cannot be easily removed and relocated without either structural modifications or substantial repairs becoming necessary to the building or the built-in furniture or shopfitting.

#### **Joinery forming an integral part of a building**

- 2.18 The most obvious type of joinery or turnery that meets the tests of the Item is timber that typically forms part of the fabric of the building during its construction. The joinery or turnery is designed and purpose built for the particular building and

permanently integrated into its fabric. Some examples would be staircases, banisters, balustrades and verandah posts.

### **Classification of timber kitchen cabinets**

- 2.19 In the past, joiners and cabinet-makers custom-built fixed timber products such as kitchen cupboards at the customer's premises at the time the house was being constructed. Often these cabinets were built up on-site from individual pieces of timber (each qualifying for exemption under subitem 42(a) in its own right) and the end product might not have had the character of manufactured goods at all, so that no question of sales tax could arise. Alternatively, if these products did amount to manufactured goods, were essentially timber and formed a part of the house, they would have satisfied the criteria described in paragraph 2.17.
- 2.20 Building practices have altered in modern times with the mass production of standard joinery components. Today, many kitchen cabinet components are delivered fully finished, in working order with locks, hinges and fastenings in place and are often sold through large retail shops and home improvement centres so that customers arrange installation or undertake their own. However, timber kitchen cabinets will meet the tests set out in paragraph 2.17, whether purchased as individual components or as part of a modular kitchen cupboard suite. Exemption will apply to timber kitchen cabinets for use in commercial as well as residential buildings.

### **Classification of bathroom vanity cabinets and laundry cabinets**

- 2.21 Similar considerations apply for vanity cabinets as for kitchen cabinets. When made wholly out of timber, these too will not be subject to sales tax. However, there are many vanity cabinets of modular construction which consist of a combination of timber and other materials. Exemption under subitem 42(c) cannot apply in these situations to the whole vanity cabinet. The following examples illustrate the sales tax treatment of vanity cabinets made from a variety of materials:
- where a person manufactures a timber base and timber top with a hole cut out for a sink, the entire cabinet is exempt. Tax is payable, at the time of purchase, on the sink that is fitted to the timber top, unless the person has grounds to quote, e.g., they intend to make wholesale sales.
  - where a person manufactures the timber base only and purchases a non-timber top, tax is payable on the top at the time of purchase, unless the person has grounds to quote. (Non-timber vanity tops are not exempt under subitem 42(c) which only covers **timber** joinery. One piece moulded vanity tops incorporating a basin have the essential character of bathroom fittings and are taxable at the Schedule 2 rate. This would also



apply to non-timber tops which have a hole cut in them to allow the later installation of a basin or sink.)

- where a person manufactures a vanity cabinet consisting of a non-timber top with a base made of a combination of materials, the whole unit will be taxable (because it is not essentially timber) as a bathroom fitting at the Schedule 2 rate.

**Note:** Sinks, troughs and bathroom fittings are specifically excluded from the Building Materials exemptions in Schedule 1 and are covered by Items 5 or 7 in Schedule 2.

- 2.22 Where laundry cabinets consist of a separate timber shell with a sink or wash trough, the shell will be exempt and only the sink or wash trough will be taxable under Item 5 of Schedule 2. Laundry cabinets which have a non-timber base will also be taxable at the Schedule 2 rate. Overhead timber laundry cabinets which are similar to timber kitchen cabinets described in paragraphs 2.19 and 2.20 will be exempt.

### **Classification of cupboards, wardrobes and other built-in furniture**

- 2.23 Some built-in furniture can be regarded as an integral part of a building. The following paragraphs describe the non-taxable and exempt types of cupboards, wardrobes and other built-in furniture:

- cupboards, wardrobes and other built-in furniture **built up on-site** will usually not constitute manufactured goods, and will therefore not attract a sales tax liability. Each of the components used in their construction should be classified separately. Persons solely dealing with this type of cupboard or wardrobe will not usually be entitled to register for sales tax and will not be entitled to exemption on machinery, etc., used to make these products;
- purpose built prefabricated or modular cupboards, wardrobes and other built-in furniture cut off-site to pre-measured specifications, transported to the site in a disassembled form and then installed are manufactured goods, but are exempt from sales tax as they satisfy all the tests in paragraph 2.17. Exemption is available for raw materials which become part of the finished goods and equipment used mainly in their production.

- 2.24 Cupboards, wardrobes and other built-in furniture will not satisfy all the tests in paragraph 2.17 where any of the following situations apply:

- they have a separate identity as freestanding furniture before installation;
- they are offered for sale as complete units or fully finished articles; or

- they are not designed to fit a particular part of a building and require no on-site adjustment.

### **Shopfittings**

- 2.25 It is common practice that pieces or components of checkout counters, display units, gondolas and other furniture are installed in commercial premises by shopfitters as part of a modular construction. As with built in furniture, some shopfittings are an integral part of the building while others are used to furnish or equip the building. The mere attachment to a building will not in itself qualify a shopfitting for exemption.
- 2.26 Shopfittings including counters, display units and storage cabinets will be exempt as joinery and turnery of a kind ordinarily used as raw materials in the construction or repair of buildings or fixtures where they satisfy the guidelines in paragraph 2.17. Shopfittings which are not essentially timber cannot be exempt under subitem 42(c) (refer to paragraph 2.7).
- 2.27 As an example, bank-type counters which are essentially timber will qualify for exemption where they are designed to fit a particular space, are permanently affixed and are substantial in size (although constructed from modular sections). They usually form part of a wall between the public and tellers creating a physical barrier for security purposes. Glass windows are often incorporated into the top of the counters creating a floor to ceiling partition. In summary, this type of counter has the character of goods used in the construction of buildings or fixtures, rather than in their furnishing or equipping. The counters do not have to be installed when the building is originally constructed<sup>9</sup>.
- 2.28 Certain shop fittings including check-out counters, island kiosks or shop counters which are merely screwed or bolted to the floor or wall for stability and can easily be removed or relocated will not satisfy all the guidelines in paragraph 2.17. Nor will joinery and turnery which is primarily used to furnish a building and is merely attached for stability or support such as an otherwise free standing shelving unit.
- 2.29 An Administrative Appeals Tribunal decision illustrates the approach to classification of gondolas and similar display units used in shopfitting. The goods in question were constructed from a variety of metal materials, and it was found that these components were not used in the construction or repair of buildings or fixtures<sup>10</sup>.

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9. Refer to paragraph 2.13.

10. Refer **Case 43/93** 93 ATC 470; (1993) 27 ATR 9043.

- 2.30 The 1995/96 Budget amendments to the sales tax legislation also ensure that racking and shelving have been excluded from exemption even though they may be permanently attached to a building. Shelving made of timber which is described, advertised and sold as shelving is not exempt under subitem 42(a), e.g., timber shelving kits. Timber used as shelving but which retains its identity as timber will be exempt under subitem 42(a). Metal brackets used in racking and shelving are taxable under Item 1 of Schedule 4.

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## Chapter 3: Classification of furniture

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### *Rates of tax*

- 3.1 The classification provision that is most relevant to the activities of furniture manufacturers and wholesalers is paragraph (a) of subitem 1(1) in Schedule 2 of the *Sales Tax (Exemptions and Classifications) Act 1992*<sup>11</sup>. Furniture not covered by Schedule 2 will be classified under Item 1 of Schedule 4.

### *Elements of Item 1 of Schedule 2*

- 3.2 The part of Item 1 that is relevant to classifying furniture reads as follows:

(1) *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;...*

(2) *Goods marketed principally as parts, fittings or accessories for goods covered by subitem (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;*

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<sup>11</sup>. Refer to footnote 1 for relevant rates.

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

- 3.3 Where items commence with a general description followed by a list, the goods falling within the terms of the list must also satisfy the general description<sup>12</sup>. Therefore, for a piece of furniture to be classified under Item 1, it must be *of a kind ordinarily used for household purposes*.
- 3.4 The exclusions contained in paragraph (a) of subitem 1(1) and subitem 1(3) above cause relatively little difficulty although it is worth noting that three specific exclusions have recently been added. These are dealt with in paragraphs 3.5 to 3.7. However, the concept of what constitutes goods of a kind ordinarily used for household purposes is rather more complicated and there are several relevant court decisions<sup>13</sup> on the question. The comments in the following paragraphs are made subject to the requirement that particular goods are not excluded by paragraph (a) of subitem 1(1) or subitem 1(3).

### **Safes, musical instruments and bric-a-brac**

- 3.5 After 7.30 pm EST on 9 May 1995, free standing and wall and floor safes are taxable at the Schedule 4 rate. The exclusion for safes specifies that both free standing safes and safes that are of a kind ordinarily installed as fixtures will be excluded from Schedules 1 and 2. The legislation ensures, however, that safes used for storing food (such as meat safes) will not be excluded from Schedule 2.
- 3.6 Musical instruments and bric-a-brac have long been accepted as being subject to the general rate of sales tax (now Schedule 4). Some doubt has recently arisen as to whether they are household furniture and taxable at the Schedule 2 rate. The legislative changes effective after 7.30 pm EST on 9 May 1995 ensure that these goods cannot be classified as furniture and remain taxable at the Schedule 4 rate.

12. This proposition has been long established and was reinforced in the decision of the Full Federal Court in **Diethelm Manufacturing Pty Ltd v. FC of T** 93 ATC 4703; (1993) 26 ATR 465. See for example, the analysis of cases by Hill J resulting in his conclusion that '...for particular goods to fall within the item those goods must first fall within the opening words of the item and also fall within one of the categories described in the lettered paragraphs.'

13. See **Sherwood Overseas Pty Ltd; FC of T v.** 85 ATC 4267; (1985) 16 ATR 473; **Hygienic Lily Ltd v. DC of T** 87 ATC 4327; (1987) 18 ATR 619; **Diethelm Manufacturing Pty Ltd v. FC of T** 93 ATC 4703; (1993) 26 ATR 465 and **FC of T v. Chubb Australia Limited** 95 ATC 4186; (1995) 30 ATR 301.

- 3.7 'Bric-a-brac' is not defined in the legislation so it would take its ordinary meaning as expressed in the dictionary. The *Macquarie Dictionary* defines 'bric-a-brac' as *miscellaneous ornamental articles of antiquarian, decorative, or other interest*. The full scope of 'bric-a-brac' will be explained in a forthcoming Sales Tax Determination.

*Furniture of a kind ordinarily used for household purposes*

- 3.8 To ascertain whether furniture is *of a kind ordinarily used for household purposes* two steps are necessary:
- first, determine the class or genus to which the furniture belongs; and
  - secondly, having made that determination, decide whether the class of furniture is commonly or regularly used for household purposes<sup>14</sup>.
- 3.9 Identifying the class of goods to which an item of furniture belongs involves determining the common characteristics that turn a collection of individual articles into a kind or class. Many articles of furniture fall into more than one class of furniture. A kitchen table, for example, could reasonably be said to fall into the classes, *tables* and *kitchen furniture*, as well as the class of *kitchen tables*. An arm chair might belong in the classes, *chairs*, *lounge room furniture* or *lounge chairs*.
- 3.10 The class that is most important for sales tax classification is the one in which all the characteristics of the particular furniture to be classified are properly represented. As a practical approach, you should always look at the narrowest class. If the narrowest class or most precise description of the goods establishes them as being of a kind used for household purposes, then the particular piece of furniture will pass the test.

*Examples of furniture classification*

- 3.11 In many cases it will be obvious whether a product is of a kind ordinarily used for household purposes. Tables and chairs of the type used in dining rooms or lounge rooms meet the description of the narrowest class into which they could be said to fall, therefore they pass the test. Similarly, beds, dressing tables and wardrobes will clearly fall into classes of furniture ordinarily used for household purposes.
- 3.12 Other products such as free standing office dividing screens and computer desks will clearly be commercial in character. Similarly, work surfaces, flipper door cupboards, shelves (and the like) which hang from panels or dividing screens, and

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14. See the comments of Hill J in **FC of T v. Chubb Australia Limited** 95 ATC 4186; (1995) 30 ATR 301.

desk returns or wings for desks are covered by Schedule 4. However, there are goods that will leave one in doubt as to their proper classification. Comments on the more difficult classification questions are discussed in the following paragraphs. Where practical guidelines such as measurements are given, these have been developed in consultation with the Furnishing Industry Association of Australia.

### **Chairs**

- 3.13 Different chairs will possibly fall into several classes of goods, many with an ordinary use in a household context. A lounge chair or kitchen chair will satisfy the test of the Item, as lounge chairs and kitchen chairs (the most precise descriptions of the goods) are ordinarily used in the home.
- 3.14 Office-style chairs are a little different. Many of these have features such as castors, tilt and height adjustments and hydraulic or gas-lift facilities that together set them aside as a class of chairs on their own (i.e., by nature, quality and adaptation they are office chairs). Whilst the predominant use of this kind of chair is clearly not for household purposes, the question of the ordinary use of the kind of goods is less clear. For example, Task chairs, previously known as typists' and clerical chairs, can be found in many private homes where there are students or where there is a desk or table used for home management and correspondence.
- 3.15 To provide clear guidance in this area, the Taxation Office has accepted manufacturers' suggestions as to the type of chair that should be regarded as an office chair and not of a kind ordinarily used for household purposes. From 1 September 1994, a swivel chair with arms, a centre column base, adjustable seat height and angle of seat or back rest and with a back height greater than 600 millimetres when measured from the top of the seat rest to the top of the back rest adjusted to its highest position, is taxable at the Schedule 4 rate.

### **Tables**

- 3.16 Like chairs, tables also come in different kinds. Conference tables constitute a different class to dining room or kitchen tables: the use, size, shape, cost and marketing of conference tables leads to the conclusion that they are a different class of goods to household tables. Conference tables are not of a kind commonly used in houses. Accordingly, they do not satisfy the requirements of the Item and will be taxable at the Schedule 4 rate.
- 3.17 Sometimes there is a practical difficulty in deciding whether a particular table falls into the class of dining room tables or conference tables. Often the distinguishing features of a table will set it apart. For example, a conference table may have inlaid leather or glass writing spaces and other specialised features. The nature, quality and adaptation of the table places it in a class not ordinarily used for household purposes. However, some manufacturers produce tables with similar designs for

conference and household use. In such cases it may be only the size, cost or general appearance of the table that indicates its kind. The Taxation Office has accepted manufacturers' suggestions that tables with no special features to distinguish them from kitchen or dining tables and which are no more than 3 square metres in surface area may be classified at the Schedule 2 rate<sup>15</sup>. Larger tables will qualify for the lower rate only where distinguishing features set them apart from conference tables and they are of a kind ordinarily used for household purposes.

### **Desks**

3.18 As a general rule, desks fall into a class of goods not ordinarily used for household purposes. However, it has long been accepted that certain small desks designed for use by students in the home are a separate class of goods. The Taxation Office accepts that the following types of desks will be taxable at the Schedule 2 rate:

- rectangular freestanding timber student desks no more than 1220 millimetres by 610 millimetres of any material thickness; and
- rectangular freestanding timber desks no more than 1800 millimetres by 800 millimetres, and using materials no thicker than 17 millimetres in total (including all supporting structures or build-ups).

3.19 Desks that do not fall into either of these categories, but have a commercial adaptation, will generally be taxable at the Schedule 4 rate. However, where desks are of a type clearly adapted for household use, a private ruling can be sought from the Taxation Office.

### **Filing cabinets**

3.20 Filing cabinets are predominantly office equipment and are generally not considered to be furniture of a kind ordinarily used for household purposes. However, in line with manufacturers' recommendations, the following class of filing cabinets will qualify for the Schedule 2 rate:

- one or two drawer timber filing cabinets using materials no thicker than 17 millimetres in total (including all supporting structures or build-ups).

3.21 Other filing cabinets are considered to be office equipment and are taxable at the Schedule 4 rate. However, where filing cabinets are of a type clearly adapted for household use, a private ruling may be sought from the Taxation Office.

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<sup>15</sup>. Refer to footnote 1.

**Sound and vision equipment storage**

- 3.22 Sound or vision equipment (TVs, tape decks, CD players, tuners, amplifiers, etc., which are taxed at the Schedule 5 rate<sup>16</sup>) is often stored in households in freestanding furniture known as entertainment units. These units are sold in many formats including cupboards with doors and drawers, glass fronted units on castors with movable shelves, open fronted cupboard units, bookcase type units, movable shelving systems, fixed shelving units, stands, pedestals, trolleys and the like. These units are accepted as goods of a kind ordinarily used for household purposes and are taxable under paragraph (a) of subitem 1(1) in Schedule 2. However, custom made goods such as speaker boxes which, in effect, become part of the sound or vision equipment, are taxed at the higher Schedule 5 rate under Item 12.

**Compact disc storage cabinets and other small furniture items**

- 3.23 Some small furniture goods, such as storage cabinets for compact discs, especially when designed for use on a desk top, may not initially appear to have the character of furniture. While characterisation questions are matters of fact in each case, small furniture goods may be taxed at the household furniture rate unless specifically excluded from Item 1 of Schedule 2 (refer to paragraph 3.2).

*Furniture in kit form*

- 3.24 Where component furniture parts marketed in kit form have been specifically designed and produced for sale with the object of being assembled by the purchaser into a single article, the components are to be classified according to the nature of the completed article. For example, where chairs or bookcases are sold in kit form to be assembled by the householder, the essence of the transaction is the sale of the chair, bookcase, or other entire article. The individual components of the kit are therefore not taxed separately.

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**Commissioner of Taxation**25 October 1995

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<sup>16</sup>. Refer to footnote 1.



ISSN 1034 - 9758

Price \$1.60

FOI Index Detail  
reference no I 1016733

*subject references*

- classification of furniture, timber and joinery

*legislative references*

- Sales Tax Assessment Act 1992
  - Section 7,
  - Section 77
- Sales Tax (Exemptions & Classifications) Act 1992
  - Item 42, Schedule 1
  - Item 1, Schedule 2
  - Item 5, Schedule 2
  - Item 7, Schedule 2
  - Item 1, Schedule 4
  - Item 12, Schedule 5

*case references*

**Academy Plastics Pty Ltd; DC of T v.**  
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**Chubb Australia Limited; FC of T v.** 95 ATC 4186; (1995) 30 ATR 301  
**Diethelm Manufacturing Pty Ltd v. FC of T** 93 ATC 4703; (1993) 26 ATR 465  
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**Case Y2** 91 ATC 104; (1990) 21 ATR 3843  
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