


SST D8 - Sales tax: General-purpose road vehicles for use in mining or prospecting operations

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There is an Erratum notice for this document.

This document has been finalised.



Draft Taxation Ruling

Sales tax: General-purpose road vehicles for use in mining or prospecting operations

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Chapter 1: What this Ruling is about

Overview

- 1.1 Goods, including eligible raw materials and parts, for use mainly in carrying out one or more mining or prospecting operations, in the course of a business of carrying out such operations may qualify for exemption from sales tax under Item 1 in Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992* (ST(E&C) Act). There are some *exclusions* from the exemption including:
 - (a) generally-excluded property (as defined in section 12) which includes certain luxury motor vehicles;
 - (b) general-purpose road vehicles (GPRVs), unless they are for use exclusively in certain restricted locations; and
 - (c) goods for use mainly in connection with administrative activities.
- 1.2 This Ruling only considers the second category of exclusions, namely, general-purpose road vehicles. It examines what is meant by the term 'general-purpose road vehicle' and gives examples of certain vehicles which are GPRVs.
- 1.3 The Ruling then sets out principles to determine those restricted locations where exclusive use of the vehicle will maintain entitlement to exemption under Item 1 despite the vehicle's identification as a GPRV.
- 1.4 It also considers whether GPRVs which do not satisfy the requirements of Item 1 may qualify for exemption under Item 28 in Schedule 1 to the ST(E&C) Act, if they are for use mainly in carrying out storage, handling, transport or dispatch activities associated with mining or prospecting operations.
- 1.5 Finally, the Ruling considers whether GPRVs for use by sub-contractors to mining or prospecting operators may qualify for exemption under Item 36 in Schedule 1 to the ST(E&C) Act.

Date of effect

- 1.6 This Ruling confirms previous ATO advice and will be effective immediately upon its release in final form. It replaces any other public or private Rulings to the extent that they are inconsistent with this Ruling, effective three months from the date of release of this Ruling. However, if a person will pay less sales 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.

Chapter 2: A single, fully integrated unit or a vehicle made up of separate components?

- 2.1 A necessary first step to classifying a vehicle for sales tax purposes is to determine whether the vehicle is a single, fully integrated unit or whether it is made up of separate components (i.e., does it have equipment mounted on it that will be classified for sales tax separately from the unit?).
- 2.2 Following the decision of the Full Supreme Court of Victoria in *ICI Australia Operations Pty Ltd v. DFC of T* 87 ATC 5110; (1987) 19 ATR 647, the Commissioner issued Taxation Ruling ST 2432 dealing with Mobile Explosives Manufacturing Units and the classification of other specialised vehicles.
- 2.3 That Ruling (which is not altered by this Ruling) determines that where the vehicle is a single, fully integrated unit (i.e., the vehicle operates as one unit) the vehicle will be classified as one unit. Where the specialised equipment attached to the cab chassis operates independently, then the cab chassis will be classified separately to the specialised equipment¹.
- 2.4 Whether a GPRV is a single, fully integrated unit or not is a question of fact and degree to be looked at in each case. Factors that you should take into account include:
- the amount and type of modifications to the cab chassis or other vehicle;
 - the degree of integration of the equipment into the cab chassis or other vehicle; and
 - whether the vehicle's transport use is incidental or subordinate to its overall operation.
- 2.5 Where it is decided that a particular vehicle is not an integrated unit and is to be classified according to its components, it is necessary to determine whether those components (e.g., a tray body) are *parts* within the definition of 'parts' in the legislation².

¹ See 'Examples of vehicles used in mining or prospecting operations' at paragraph 3.7.

² See 'Definitions' at **Appendix 1**.

Chapter 3: When is a vehicle a GPRV?

3.1 Having determined whether the vehicle is a fully integrated unit or not, there are two parts to the definition of GPRV³ which need to be considered:

- Is it a road vehicle?
- Is it of a kind ordinarily used for the transport of persons or the transport or delivery of goods or other property?

What is a 'road vehicle'?

3.2 The term 'road vehicle' refers to the class of vehicle, not to the actual use to which a particular vehicle may be put. It is a vehicle designed for use on roads, either public or private, and is a road vehicle even though it may never be used or registered for use on public roads. Factors which are relevant in determining whether a vehicle is a road vehicle include the following:

- Is the vehicle registered for road use or is it capable of being registered for such use (with or without restrictions applying to its use on the road)?
- Is it of a type ordinarily used on the roads?
- Has it any features which may take it out of the class of road vehicles? (Those features may include being overwidth, overweight or having speed restrictions, any of which may stop it from being used on the road for the purpose for which it was designed.)

Meaning of road vehicles 'of a kind ordinarily used for the transport of persons or the transport or delivery of goods or other property'

3.3 This phrase envisages a settled or common use of goods that is not necessarily an exclusive or principal use. It requires the road vehicle to be of a class of goods commonly or routinely used in the transport of persons or the transport or delivery of goods or other property. The important decision to be made is not whether a particular road vehicle is actually used for this purpose but whether it belongs to a class of road vehicles that is commonly used for this purpose. This is supported by

³ See definition of 'general-purpose road vehicle' in 'Definitions' section of **Appendix 1**.

the decisions of various courts⁴ that have considered the meaning of the phrase 'of a kind ordinarily used'.

3.4 Road vehicles that are not characterised as the kind that are ordinarily used for the transport of persons, or the transport or delivery of goods or other property are those where:

- a) the transport or delivery use is incidental, subordinate or secondary to the use of the road vehicle, as a class of goods, for another purpose; and
- b) their primary use, as a class of goods, is for that other purpose.

3.5 Examples of vehicles used in mining and prospecting operations, and whether they are of a kind used for the transport of persons or the transport or delivery of goods or other property, are given later in this Ruling.

Parts for GPRVs

3.6 The definition of 'parts'⁵ covers goods that are parts within the ordinary meaning of the term and also extends to further goods. Parts for GPRVs will be exempt from sales tax if the GPRVs qualify for exemption.

Examples of vehicles used in mining or prospecting operations

3.7 A wide range of vehicles is used in mining or prospecting operations. The following examples of vehicles are given to show how the principles outlined above should be applied to determine whether a vehicle qualifies for exemption under Item 1 as goods for use mainly in carrying out mining or prospecting operations, or is a GPRV which must satisfy further tests (described later in this Ruling) if it is to qualify for exemption under Item 1.

Specially modified underground mining vehicles

3.8 Major modifications are sometimes carried out on standard vehicles (usually 4WDs) before the assessable dealing so that the vehicle can be used in underground mining operations. Modifications may include significant body work, changes to the gearbox so that only low range 4WD may be engaged, speed limiters, changes to the electrical systems, the fitting of specialised equipment, etc. Major modifications along those lines would usually take the vehicle out of the class of GPRV.

⁴ *Hygienic Lily Ltd v. DC of T* 87 ATC 4327; (1987) 18 ATR 619; *O R Cormack Pty Limited v. FC of T* 92 ATC 4121; (1992) 23 ATR 151; *Diethlem Manufacturing Pty Ltd v. FC of T* 93 ATC 4703; (1993) 26 ATR 465 and *FC of T v. Chubb Australia Ltd* 95 ATC 4186; (1995) 30 ATR 285.

⁵ See 'Definitions' at **Appendix 1**.

- 3.9 Minor modifications, such as the removal of lights, bumpers and doors, etc., would not take a vehicle out of the class of GPRV even though the vehicle, in this form, may not be able to be registered for use on a public road.

Fully integrated mobile drilling rigs, mobile cranes, tractor cranes

- 3.10 These vehicles, often built from the ground up, are designed for a particular purpose, i.e., drilling bore holes, lifting equipment, etc. They are fully integrated and classified as a single unit and are not GPRVs. Whilst many of these are registered for road use and are obviously road vehicles, any transport of persons or goods (such as drilling rods, cables, etc.) is incidental to the main purpose of the vehicle.
- 3.11 Equipment, such as drilling equipment, post hole diggers or a crane, is sometimes mounted onto a tray top truck or cab chassis and the equipment operates separately from the truck or cab chassis. This would not normally result in the vehicle being a single integrated unit and the truck or cab chassis would usually be treated as a road vehicle. The equipment mounted onto the vehicle would be classified separately (bearing in mind the definition of 'parts' in relation to road vehicles).

Service vehicles

- 3.12 Vehicles may be fitted with various equipment for use in servicing mining equipment, such as drilling rigs and excavators. The servicing equipment may include fuel tanks, dispensing equipment, oil and grease storage facilities, lubrication equipment, compressors, tool storage, etc. This equipment is usually mounted onto a tray top truck or a standard cab chassis or one that may have been modified in a minor way to accommodate the service equipment.
- 3.13 These vehicles are not fully integrated vehicles and the vehicle or cab chassis is generally classified separately from the servicing equipment mounted on it. The vehicle is a GPRV.
- 3.14 If the service equipment is used mainly in the servicing of exempt mining equipment, it would be exempt under Item 1⁶ regardless of where it is used.

Explosive manufacturing vehicles

- 3.15 Having regard to the decision in the *ICI* case⁷ and Taxation Ruling ST 2432, vehicles of the kind considered in the *ICI* case are not GPRVs.

Water trucks/tankers

- 3.16 Road vehicles fitted with tanks and used to carry water to support mining/drilling operations, etc., would generally be treated as GPRVs.

⁶ See Item 1 at **Appendix 1**.

⁷ *DFC of T v. ICI Australia Operations Pty Ltd* 87 ATC 4069; (1987) 18 ATR 313.

Dump trucks

- 3.17 The type of dump trucks referred to here are large mine haul dump trucks (approximate capacity of 80 to over 200 tonnes) with an upswept rear end to facilitate tipping. While they are used to carry goods, these types of vehicles are not capable of use on the road and are not GPRVs.
- 3.18 Sometimes, when these types of dump trucks reach the end of their useful lives as haul trucks, they are converted to water tankers for use in watering mine haul roads. These vehicles are usually Australian used goods and the need to classify them may not arise. However, should they need to be classified, they are similar to dump trucks and are not GPRVs.

4WD pit vehicles

- 3.19 These are usually standard 4WD vehicles, often fitted with safety equipment, such as flashing lights or tall flag-topped aerials, and are used to transport personnel and equipment around the mine pit. They are GPRVs.

Hi-rail vehicles

- 3.20 These are vehicles (usually 4WD) that have hydraulically-operated equipment mounted at the front and rear which, when lowered, allows the vehicle to run along a railway line.
- 3.21 Hi-rail vehicles are GPRVs. The hi-rail equipment mounted on the vehicles does not take them out of the class of vehicles of the kind used for the transport of persons, etc. They are merely adapted for a particular purpose, i.e., to allow them to travel along a railway line. In addition, hi-rail equipment by itself may qualify for exemption as parts for GPRVs (see paragraph 3.6).

Cable laying vehicles

- 3.22 These are usually cab chassis or tray top trucks with provision for large cable spools to be carried for cable laying activities. They are GPRVs. If cable laying equipment is merely sitting on the back of the vehicle, it may be classified separately from the vehicle and may qualify for exemption depending on its use. Where the vehicle is modified to include the cable laying equipment, the vehicle will be classified as a whole.

Mobile laboratories or survey vehicles

- 3.23 Specially fitted out trucks are often used as mobile laboratories, survey vehicles or the like. These vehicles have specialised equipment mounted in or on them in order to carry out the desired function. For example, in the case of mobile laboratories,

there may be various testing equipment, computers, etc., or for survey vehicles, there may be seismic survey equipment, computer recording devices, GPS systems, etc.

- 3.24 These vehicles are usually normal road vehicles with or without minor modifications and are GPRVs. The equipment mounted on the vehicle, if used mainly in qualifying mining or prospecting operations, would be covered by Item 1 regardless of where it is used.

Chapter 4: Where must a GPRV be used to maintain exemption under Item 1?

- 4.1 Item 1⁸ of Schedule 1 to the ST(E&C) Act provides exemption for certain goods used in mining activities. However, paragraph (b) of subitem 1(3) specifically excludes a GPRV from exemption unless it is for use *exclusively*:
- within premises controlled by the exemption user and used by the exemption user mainly in carrying out one or more of the activities covered by subitem (1); and/or
 - in going between such premises that are adjacent.
- 4.2 There is also the additional requirement in Item 1 that the GPRV cannot be for use, to any extent, in any part of those premises that is used, or for use, mainly in connection with a township, accommodation complex or similar place. At **Appendix 2** is a flow chart that outlines the steps to determine whether exemption applies under Item 1 for vehicles which have been identified as GPRVs.

What is meant by 'for use exclusively'?

- 4.3 The phrase 'for use exclusively' is not defined in the legislation. *The Macquarie Dictionary* defines the term 'exclusive' as being:

'1. not admitting of something else; incompatible: *mutually exclusive ideas*. 2. excluding from consideration or account ... 3. limited to the object or objects designated ... 4. shutting out all others from a part or share: *an exclusive grant*. 5. shutting out all other activities: *an exclusive occupation*. 6. in which no others have a share: *exclusive information*. 7. single or sole: *the exclusive means of communication between two places*.'

⁸ See **Appendix 1**.

- 4.4 The meaning of 'for use exclusively' needs to be determined in accordance with the context in which it appears. It occurs in an exclusion to an exemption where the structure of the Item is to exclude all GPRVs from exemption (even though they may be used in mining or prospecting operations) unless the vehicle is used exclusively in certain restricted areas.
- 4.5 Whilst the ordinary meaning of 'for use exclusively' would suggest 100% use of the GPRV is required, the term has been interpreted by the courts to be subject to the *de minimus non curat lex* doctrine⁹. This means that occasional, irregular or insignificant use away from premises will not disqualify a GPRV from exemption from sales tax. Examples of use away from premises that would be acceptable as irregular or insignificant include:
- yearly motor vehicle registration tests;
 - necessary servicing of the vehicle away from the premises; and
 - emergency situations where a vehicle is required to be taken 'off site'.
- 4.6 Small but regular use (e.g., weekly, fortnightly or monthly pick up of stores) away from premises will mean that a GPRV is excluded from exemption even though the overall use for this purpose is a small proportion of the vehicle's total use. If, at the time of the assessable dealing, this is part of a vehicle's intended use, no exemption is available.

What are 'premises'?

- 4.7 Mining activities are normally conducted on land that is either freehold, leasehold, the subject of a particular type of mining tenement under the relevant State Mining Act or the subject of specific legislation that outlines a particular project and sets out the controls, rights, etc., of the participants in the project.
- 4.8 Mining tenements are largely governed by State legislation and may vary from State to State. The main types of tenements that are common to most States are:
- mining leases;
 - general-purpose leases;
 - prospecting licences;
 - exploration licences; and
 - miscellaneous licences.
- 4.9 Each tenement sets out the rights of the holders to carry out various activities relating to mining on certain Crown land, public reserves or on private land. The rights vary according to the type of tenement and the type of property on which the activities are to be carried out.

⁹ *Farnell Electronic Components Pty Ltd v. Collector of Customs* NG189 of 1996 Fed No 1135/96 (24 December 1996).

- 4.10 For the purpose of the exemption for GPRVs under Item 1, 'premises' includes freehold and leasehold property and also includes those tracts of land covered by State Acts and various mining tenements that allow mining, prospecting, or restoring or rehabilitating operations to be carried out.
- 4.11 This view is supported by the AAT¹⁰ where it was decided that:
- '... "premises", in the present context, includes adjoining mineral leases being mined, mineral leases held for mining or prospecting operations, exploration or prospecting licences and integral miscellaneous licences and the lease or freehold on which is located the processing plant.'

What constitutes 'control' of premises?

- 4.12 Mining leases are leases for the purposes of the definition of 'control', and activities conducted by persons on mining leases held by them are conducted on premises controlled by them.
- 4.13 Although prospecting or exploration licences are premises, they are not leases, so the question to be answered is whether the right to conduct certain limited activities in an area amounts to control of the premises for the purpose of the exemption.
- 4.14 The legislative definition of 'controlled'¹¹ is an inclusive one and is not exhaustive. Therefore, in looking at the meaning of 'control/controlled' it is also necessary to look at the normal or ordinary meaning of the terms.

Context of control

- 4.15 In a legal context, control arises from interests or rights. Possession of those rights gives the possessor control over what flows from the rights, whether the rights are contractual, statutory or of some other kind. 'Control' is a relative term capable of a wide range of meanings. The meaning of 'control' in any single instance will be related to its context. Further, the type of control envisaged can be identified by reference to its context in the legislation.
- 4.16 Item 1 identifies its scope to include 'mining or prospecting operations' (in the course of a business of carrying out mining or prospecting operations) and the 'restoration or rehabilitation of a site'. 'Mining or prospecting operations'¹² is defined in the legislation to include exploring or prospecting for deposits that are to be recovered by mining or quarrying operations. Premises used for prospecting or exploration will qualify for the purposes of paragraph (b)(i) of subitem 1(3) when they are controlled by the exemption user and are used for one or more of the specified activities.

¹⁰ Case 21/96 96 ATC 257 at 270; AAT Case 10,716 (1996) 32 ATR 1132 at 1146.

¹¹ See 'Definitions' at **Appendix 1**.

¹² Subitem 1(4) of Schedule 1 to the ST(E&C) Act.

Degree of control

- 4.17 Paragraph (b)(i) of subitem 1(3) makes no reference to the degree of control which qualifies for the purposes of the paragraph. It is largely a question of fact whether the type of tenement held over an area gives that person control over the premises. In circumstances where a right can be identified, giving rise to a form of control, the strict terms of the control requirement would appear to have been met.
- 4.18 Tenements such as prospecting, exploration and miscellaneous operations are held under licences, not leases, and give some limited rights to the holder over the premises used. Rights associated with those prospecting, exploration and miscellaneous operations would generally provide the relevant form of control required by paragraph (b)(i) unless the facts show otherwise.

Premises controlled

- 4.19 For the purposes of paragraph (b)(i) of subitem 1(3) the term 'controlled' allows for the type and degree of control which is relevant to subitem 1(1) activities, including:
- mining operations;
 - prospecting or exploration operations; or
 - restoring or rehabilitating a site.
- 4.20 This view is supported by the AAT¹³ where it was decided that:
- '... "controlled", in relation to premises, includes premises either owned or leased. In this context, the tenements are for "mining or prospecting operations", and are in a loose sense "leased". However, for reasons stated below, mining tenements which include public roads, to that extent, despite ss. 66, 67 and 91 of the *Mining Act 1978* (WA), are not controlled by the lessee.'
- and:
- '... the principals' mining tenements, with the exclusion of those over public carriageways, are "controlled" by them within the meaning of Item 1 of Schedule 1 to the *Exemptions Act*.'
- 4.21 Travel on public roads is clearly not within premises controlled by the exemption user. Consequently, a GPRV that travels on public roads between premises will be excluded from exemption unless the premises are adjacent¹⁴. Vehicles used to travel between two mining leases located on either side of a public road would not be denied exemption. Similarly, use on a public road that bisects a single mining lease would not preclude exemption where the vehicle is used exclusively within the mining lease and otherwise qualifies for exemption.

¹³ Case 21/96 96 ATC 257 at 270-271; AAT Case 10,716 (1996) 32 ATR 1132 at 1147.

¹⁴ See paragraphs 4.27 to 4.35 of this Ruling.

- 4.22 In general, where a miscellaneous licence is granted under a Mining Act for the construction and maintenance of a private road, it would relate to premises controlled by the exemption user. Where there is no miscellaneous or other licence covering the road corridor and it is merely on Crown land, there are no premises controlled by the miner. Vehicles used to travel between premises on these types of roads would not satisfy the requirements of the exemption unless the premises were adjacent.

Miner's rights, etc.

- 4.23 A licence, such as a miner's right that gives a person some limited rights, for example, to prospect or explore on Crown or other land, does not result in control of premises. This is because there are usually no premises stipulated by a miner's right.

Use of premises

- 4.24 The premises must not only be controlled by the relevant person, but also used by that person mainly in carrying out one or more activities covered in subitem 1(1). Where a GPRV travels in or between premises that are used mainly for activities that are not covered by the subitem, those premises will not satisfy this criterion and the GPRV will not be exempt.
- 4.25 Generally speaking, it will not be necessary to show that mining or exploration is actually being undertaken at all relevant times on those premises, provided that an appropriate lease or licence is held by the exemption user indicating an intention to carry out such activities.
- 4.26 If the premises are controlled by way of a pastoral lease, for example, and no mining, exploration, or other activity specified in subitem 1(1) is actually being undertaken on those premises, GPRVs used on those premises will not qualify for exemption under Item 1.

What are 'adjacent' premises?

- 4.27 Assuming that the requirements relating to exclusive use of the vehicle and control and use of premises are satisfied, a GPRV will qualify for exemption if it is for use exclusively:
- (a) within those premises;
 - (b) going between relevant, controlled adjacent premises: or
 - (c) for a combination of (a) and (b).
- 4.28 The term 'adjacent' is not defined in the legislation and so takes its ordinary meaning. It is defined in *The Macquarie Dictionary* as:
- 'Lying near, close, or contiguous; adjoining, neighbouring: a field adjacent to the main road.'

4.29 In *FC of T v. BHP Minerals Ltd*¹⁵ Toohey and Lockhart JJ, in considering the meaning of 'at a place adjacent to', referred to the opinion of the Judicial Committee of the Privy Council in *Mayor of Wellington v. Mayor of Lower Hutt* [1904] AC 773 that:

' "Adjacent" is not a word to which a precise and uniform meaning is attached by ordinary usage. It is not confined to places adjoining, and it includes places close to or near. What degree of proximity would justify the application of the word is entirely a question of circumstances ...'

4.30 Toohey and Lockhart JJ went on to note that where a word is not defined in the legislation, the ordinary meaning should first be considered and then whether that meaning needs to be qualified in some way by the context in which it appears.

4.31 The term 'adjacent' in the current situation appears in an exclusion to the exemption. A vehicle is not exempt unless it is used exclusively within premises or in going between adjacent premises (or a combination of both). The structure of the exemption is to exclude all GPRVs from exemption even though they may be used in mining and prospecting operations, unless the vehicle is used in very limited circumstances.

Urban and rural areas

4.32 Premises in urban and rural areas that are:

- separated by a roadway, railway line or the like; or
- separated by a small property, field or parkland;

are likely to be adjacent. Premises that are separated by suburbs, towns or several other properties would not be adjacent.

Remote areas

4.33 Premises in remote areas that are separated by short distances are likely to be adjacent. For example, two properties located in the Tanami or Simpson desert (a remote area) which are separated by a distance of 5 kilometres would be adjacent. Premises that are separated by townships or several other properties would not be adjacent.

4.34 Where sites are adjacent but, due to other factors (e.g., geographic features or the presence of sacred sites), extended travel is required to travel between them, generally exemption would apply where the most practicable direct route is taken. This would depend on the facts surrounding the use of the vehicles and the actual route taken.

4.35 In summary, premises are adjacent when they are abutting, close or near and not distant or remote from one other. It is not possible to give precise measurements or

¹⁵ 83 ATC 4407 at 4412; (1983) 14 ATR 389 at 395.

distances between premises that will or will not result in their being adjacent. Each case needs to be looked at having regard to the geographical location of the premises and other relevant factors. **Appendix 3** contains diagrams showing examples of premises in remote areas that are adjacent and others that are not.

Use of GPRVs in townships, accommodation complexes or similar places

- 4.36 In many cases, mining activities are carried out at remote or relatively remote areas where the miner has been required to provide accommodation and other facilities for the workers. The accommodation facilities are often located on the mining property or very close to it, or alternatively, a nearby township is used.
- 4.37 Often, vehicles that are used virtually exclusively in carrying out mining activities may be taken to the accommodation complex or township at breaks or at the end of the shift. This may be for a number of reasons, such as:
- there is no other transport available from the actual mine area to the accommodation facilities;
 - the driver of the vehicle is on call and requires the vehicle near to hand to attend emergency call-outs;
 - there is greater security available around the accommodation area; and
 - it is general practice to do so.
- 4.38 In addition to the premises requirements as outlined in paragraphs 4.7 to 4.35 above, Item 1 excludes from exemption GPRVs that are for use to any extent in any part of those premises that is used or is for use mainly in connection with a township, accommodation complex or similar place. The exclusion envisages identification of a part of a larger premise (e.g., a mining lease) that is for use for a particular purpose.

What is meant by a 'township, accommodation complex or similar place'?

- 4.39 The terms 'township' and 'accommodation complex' are not defined in the legislation, so they take their ordinary meaning. *The Macquarie Dictionary* defines 'township' as:
- '1. a small town or settlement';
- and, as far as is relevant, defines 'accommodation' as:
- '6. Lodging , or food and lodging'.
- 4.40 In the context in which these terms appear in Item 1 they are taken to mean areas where people live (whether permanently or not) or are provided with lodging, with or without food. They include areas occupied by facilities associated with the provision of accommodation and located near to the accommodation.
- 4.41 A township, accommodation complex or similar place does not include small temporary facilities such as a transitory exploration camp consisting of tents or

caravans which is regularly moved from one site to another as exploration activities progress.

- 4.42 Small camps consisting of permanent or semi-permanent accommodation, such as transportable or skid mounted single men's quarters/messes/ablution blocks and other facilities connected to water and power supplies and in location for the duration of the mining activities, would normally be an accommodation complex.
- 4.43 It is a question of fact and degree as to whether a particular facility is a township, accommodation complex or similar place. Factors that are taken into account when determining this include:
- the size of the establishment;
 - the types of facilities provided;
 - the degree of permanency of the settlement; and
 - how long the settlement is intended to remain in place or how often it can be expected to be relocated.
- 4.44 On occasions there may be difficulties in determining what area is covered by a township, etc., and where the boundaries of this area may be. This is often because the area may be in a remote locality and there may or may not be any division between the township, etc., and the rest of the mining lease. Also, there may be other facilities located nearby. This is discussed in further detail in paragraphs 4.47 to 4.52 below.

Use 'to any extent'

- 4.45 As this is an exclusion to an exemption and expressed in very clear terms, the words 'to any extent' mean any use whatsoever, regardless of how small. Any use or intended use of a vehicle within an area that is used mainly as a township, etc., will disqualify a vehicle from exemption. This would include the parking (for whatever reason) of a vehicle within a township, accommodation complex or similar place.
- 4.46 The situation would be different if, for example, a vehicle was taken into such an area because of an isolated emergency or for maintenance or repair work to be carried out on the vehicle where the repair facilities are located in the township.

Premises used 'in connection with' a township, accommodation complex, or similar place

- 4.47 The term 'in connection with' is a very wide term. In *Collector of Customs v. Cliffs Robe River Iron Associates*¹⁶ it was said by the Full Federal Court:

"The meaning of the word "connection" is both wide and imprecise. One of its common meanings is "relation between things one of which is

¹⁶ (1985) 7 FCR 271 at 275.

bound up with, or involved, in another" (*Shorter Oxford English Dictionary*).'

- 4.48 An area for use in connection with a township, accommodation complex or similar place is taken to include areas occupied by facilities located near to and provided as part of a township or accommodation complex. Examples of such facilities would include canteens, messes and entertainment and recreational areas such as ovals, theatres, swimming pools, tennis courts or other facilities. A crib-room which is on a minesite and away from the township, for example, in or near the open pit or processing area, would not be for use mainly in connection with the township.

Is a parking area 'for use in connection with a township, accommodation complex or similar place'?

- 4.49 It is necessary to determine whether parking areas at or near a township, etc., are included as part of premises used in connection with the township, etc. This is a question of fact and degree to be determined on a case by case basis. In some cases, it will be clear whether or not a particular parking area is part of premises used in connection with a township, etc. For example:
- individual parking facilities, such as a carport or drive attached to a house or unit within a township or accommodation complex, would clearly be part of premises used in connection with a township, etc.
 - a parking area at the minesite, located some kilometres from the accommodation area, that employees are bused to and from, would not be part of those premises.
- 4.50 A parking area immediately adjacent to an accommodation complex may or may not be part of the premises used mainly in connection with an accommodation complex. The types of issues that need to be determined in these situations are:
- the relative locations of the area and the accommodation complex;
 - the purpose of the parking area and why vehicles are parked there; and
 - the general impression received when looking at the total area of whether a particular part of it (the parking area) is for use mainly in connection with the township, etc., or for use mainly in connection with some other area.
- 4.51 If the answer to those issues is that the area provides parking for vehicles used to transport workers (or goods) to and from the accommodation complex, the parking area would be part of premises used in connection with a township, etc. It follows that vehicles parked in this area would be used to some extent within part of premises used in connection with a township, etc., and would not be exempt from sales tax under Item 1. This would be the case even though the vehicles are used mainly in mining and prospecting operations and are only taken to the parking area at break times or at the end of the shift, etc.
- 4.52 Alternatively, where a parking area is located adjacent to a vehicle workshop that is located near or next to an accommodation complex, it is a question of fact as to

whether that area is used mainly in connection with the workshop or in connection with the accommodation complex.

Chapter 5: What conditions must be met for exemption to apply to GPRVs under Item 28?

- 5.1 Item 28¹⁷ is not an item that relates to a specific industry. Its purpose is to provide exemption for certain goods mainly used in activities of storing, handling, transporting or dispatching qualifying goods.
- 5.2 **Appendix 4** is a flow chart that outlines the steps to determine whether exemption applies to a GPRV under Item 28. The first condition to be satisfied by a GPRV under this Item is that it must be for use mainly in carrying out one or more of the following activities:
- storing qualifying goods of the exemption user;
 - handling qualifying goods of the exemption user;
 - transporting qualifying goods of the exemption user;
 - dispatching qualifying goods of the exemption user; and/or
 - various ancillary activities related to those storage, handling, transport or dispatch activities.

What are 'qualifying goods'?

- 5.3 The term 'qualifying goods' is defined in the legislation¹⁸. Qualifying goods include the manufactured goods of exemption users, goods derived from primary production activities or mining or prospecting operations carried out by exemption users, raw materials, work in progress or goods covered by the business inputs Items listed in the definition of 'qualifying goods' in **Appendix 1**.
- 5.4 Clearly, the transport of most inputs and outputs of the mining process is covered by Item 28, for example, the transport of ore or equipment used in drilling operations. The use of a vehicle to transport people does not qualify it for exemption, other than in limited circumstances as an ancillary activity - see paragraphs 5.11 to 5.13.

¹⁷ See **Appendix 1**.

¹⁸ Definition in subsection 3(2) of the ST(E&C) Act. See also **Appendix 1** of this Ruling.

Main use

- 5.5 When a vehicle is used (or is for use) for more than one purpose, it will be a question of fact and degree as to what is its main use. 'Mainly' means 'to the extent of more than 50 per cent'¹⁹. However, such a test does not provide an easy answer in this context, as more than one usage of a vehicle may occur at the same time. For example, a vehicle may be used to transport surveyors to sites (a non-eligible activity) and to transport the surveyors' equipment (an eligible activity as the equipment is qualifying goods). The time spent by the vehicle in each activity of transporting people and equipment may be equal, if they are all transported on each trip. In cases of multiple uses, the decision as to which is the main use must be determined by reference to the purpose of that particular activity.
- 5.6 In the above example, the facts may show that the main purpose is to transport the people and that the transport of the equipment is merely ancillary to that purpose. On the other hand, in a case where a vehicle is used primarily to collect samples from various sites and deliver them to a laboratory, it may be that the main purpose is the transport of qualifying goods and the fact that the driver and occasional passengers are also transported will be incidental to that main purpose.
- 5.7 Determining the use of the vehicle involves an exercise in characterisation. The real character of the activity being undertaken needs to be established in order to determine whether exemption might apply.

Premises controlled

- 5.8 Under paragraph (b) of subitem 28(3) a GPRV used mainly as described above is not exempt unless it is for use exclusively:
- within premises controlled by the exemption user (not including so much of those premises as is used, or for use, mainly in connection with the retail sale of goods at those premises to the general public); and/or
 - in going between such premises that are adjacent.
- 5.9 The requirements relating to control over premises are similar to those contained in Item 1. Reference should be made to paragraphs 4.12 to 4.23 of this Ruling. Item 28 does not require that the exemption user use the premises mainly in carrying out any particular activity, e.g., mining. The only condition is that the vehicle not be used on any premises or parts of premises used mainly in connection with the retail sale of goods at those premises to the general public. This restriction will have little, if any, application in the mining industry.
- 5.10 Where a GPRV is used mainly for mining activities so as to be exempt under Item 1, use of that vehicle to any extent in premises for use as a township, etc., would deny the exemption (see paragraphs 4.36 to 4.52 of this Ruling). As Item 28 does not

¹⁹ Definition in subsection 3(2) of the ST(E&C) Act.

contain a similar restriction, it is critical to determine whether the main use of a vehicle used in such premises is use in carrying out mining activities within Item 1 or use in carrying out storage, handling, transport or dispatch activities within Item 28 (see paragraphs 5.2 to 5.4).

Ancillary activities

- 5.11 One of the ancillary activities covered under Item 28 is the transport of people within an eligible area in order to assist them in carrying out the higher-level activities (storing, handling, transporting or dispatching qualifying goods). The term 'eligible area' is defined as 'an area that is used, or for use, mainly in carrying out the higher-level activities'²⁰.
- 5.12 For example, a GPRV could be bought free of sales tax where it is used mainly to transport workers from a central pick-up point within the mine site to trucks which they use to transport ore from the pit to a nearby storage site on the same premises. In this example the higher-level activity is the transport of qualifying goods - the ore - on premises controlled by the exemption user. Therefore, the eligible area in this case would be the tract of land over which the trucks carry out that transport function.
- 5.13 A GPRV used to transport people between the accommodation complex and the mine site would not be exempt because 'eligible area' is not the same as 'premises'. It is more specific than premises as its definition refers to its use in narrowly defined activities. There may in fact be a number of potential 'eligible areas' within one premises. For instance, on the one large mining lease (the premises) there may be a mine site, a storage site and an accommodation complex, all separated by a number of kilometres. The mine site, the storage site and the corridor between the two may each be distinct eligible areas depending on the context, but the accommodation complex would not be an eligible area.

Chapter 6: Exemptions for contractors under item 36

- 6.1 Vehicles for use by contractors on behalf of one or more other persons ('the principals') in the mining industry may be exempt from sales tax under Item 36²¹. The conditions that would apply under Item 1 or 28 if the activities were conducted by the principal, will generally also apply under Item 36 in relation to the contractor.

²⁰ Subsection 10(2) of the ST(E&C) Act.

²¹ See **Appendix 1** for the wording of the Item.

Appendix 5 is a flow chart that outlines the steps to determine whether exemption applies to a GPRV under Item 36.

On behalf of

- 6.2 The phrase 'on behalf of one or more other persons' is not defined in the legislation. It therefore takes its ordinary meaning. Effectively, it is taken to mean doing an activity for the other person. Goods used by an employee in carrying out the employee's duties would not normally be used on behalf of the employer in this sense.
- 6.3 Formal contractual arrangements for the work do not need to be present. However, in most cases there would need to be some agreement (either oral or written) as to the nature of the activities to be carried out by the subcontractor, and the mutual obligations.
- 6.4 While it would be the normal situation for a person carrying out activities on behalf of another to do so for reward, Item 36 does not have this as a requirement. Therefore, the absence of reward will not affect exemption.

Exclusive use

- 6.5 An AAT case²² has held that, for a contractor's GPRV to be exempt under Item 36 by reference to Item 1 or 28, its use must be exclusively within relevant premises and/or in going between adjacent premises. The Tribunal held that, even though the wording of Item 36 allows exemption for goods for use mainly in specified activities, the more stringent requirements in Items 1 and 28 need to be satisfied by a contractor's GPRV in the same way that they would need to be satisfied if it were the principal's GPRV. Accordingly, use outside relevant premises (other than in travelling between certain adjacent premises, for example, those of the same principal) will disqualify the GPRV from exemption under Item 36.
- 6.6 The other conditions discussed earlier in this Ruling in relation to Items 1 and 28 will also apply to determine exemption for contractors under Item 36. Where a contractor carries out activities on behalf of more than one principal to make up 50 per cent of the use of the GPRV (i.e., the main use), the conditions need to be satisfied in relation to each of those principals. For example, each of those principals will need to satisfy the criteria of control over the relevant premises and use of those premises in the manner specified in the Item (e.g., for mining or prospecting) as required.

²² Case 21/96 96 ATC 257; AAT Case 10,716 (1996) 32 ATR 1132.

Chapter 7: Your comments

7.1 If you wish to comment on this draft Sales Tax Ruling, please send your comments by 30 June 1997 to:

Contact Officer: Michael Wong
Telephone: (09) 268 6446
Facsimile: (09) 268 6917
Address: Mr M T Wong
Australian Taxation Office
PO Box 1003
CANNINGTON WA 6107.

Commissioner of Taxation

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- accommodation complex
- adjacent premises
- controlled
- exclusive use
- general-purpose road vehicles
- mining or prospecting operations
- township

legislative references

- Sales Tax (Exemptions and Classifications) Act 1992, Items 1; 28 and 36 in Schedule 1 and subsection 3(2)

case references

- Collector of Customs v. Cliffs Robe River Iron Associates (1985) 7 FCR 271
- C of T (Cth) v. Chubb Australia Ltd 95 ATC 4186; (1995) 30 ATR 285
- DFC of T v. ICI Australia Operations Pty Ltd 87 ATC 4069; (1987) 18 ATR 313
- Diethlem Manufacturing Pty Ltd v. FC of T 93 ATC 4703; (1993) 26 ATR 465
- Farnell Electronic Components Pty Ltd v. Collector of Customs [1996] 1135 FCA 1 (24 December 1996)
- FC of T v. BHP Minerals Ltd 83 ATC 4407; (1983) 14 ATR 389
- Hygienic Lily Ltd v. DC of T 87 ATC 4327; (1987) 18 ATR 619
- ICI Australia Operations Pty Ltd v. DC of T (Vic) 87 ATC 5110; (1987) 19 ATR 647
- Mayor of Wellington v. Mayor of Lower Hutt [1904] AC 773
- O R Cormack Pty Limited v. FC of T 92 ATC 4121; (1992) 23 ATR 151
- Case 21/96 96 ATC 257; AAT Case 10,716 (1996) 32 ATR 1132

Appendix 1 Legislative Provisions

Definitions

'controlled', in relation to premises, includes owned or leased²³.

'general-purpose road vehicle' means a road vehicle of a kind ordinarily used for the transport of persons or the transport or delivery of goods or other property²⁴.

'mainly' means to the extent of more than 50%²⁵.

'mining' includes mining petroleum or natural gas²⁶.

'mining or prospecting operations' means:

- (a) mining operations;*
- (b) quarrying operations;*
- (c) exploring or prospecting for deposits that are to be recovered by mining or quarrying operations.²⁷*

'parts', in relation to road vehicles, includes:

- (a) bodies for those road vehicles (including insulated bodies, tank-bodies, and other bodies designed for the transport or delivery of goods or other property of particular kinds);*
- (b) underbody hoists, and other equipment or apparatus of a kind ordinarily fitted to road vehicles for use in connection with the transport or delivery of goods or other property by those road vehicles²⁸.*

qualifying goods, in relation to a person ('the exemption user'), means any of the following:

- (a) goods the exemption user has manufactured;*
 - (aa) ...*
 - (ab) ...*
 - (ac) ...*
- (b) goods derived directly from either of the following activities that the exemption user carries out in Australia (whether or not the goods have been manufactured):*
 - (i) a primary production activity (as defined by exemption Item 2);*
 - (ii) mining or prospecting operations (as defined by exemption Item 1);*

²³ Subsection 3(2) of the ST(E&C) Act.

²⁴ *ibid.*

²⁵ *ibid.*

²⁶ *ibid.*

²⁷ Subitem 1(4) of Schedule 1 to the ST(E&C) Act.

²⁸ Subsection 3(2) of the ST(E&C) Act.

- (c) *goods to which the exemption user has applied, is applying or will apply a process or treatment as described in paragraph (a), (b) or (c) of the definition of 'manufacture-related activity' in exemption Item 18;*
- (d) *goods that are used or for use by the exemption user in such a way that they are covered by exemption Item 1, 2, 18, 23, 28, 29, 30, 33, 34, 35 or 38²⁹.*

Exemption Items (Schedule 1 to the ST(E&C) Act)

ITEM 1: [Mining activities] [R]

- (1) *Goods for use by a person ('the exemption user') mainly in carrying out one or more of the following activities:*
 - (a) *mining or prospecting operations in the course of a business of carrying out mining or prospecting operations;*
 - (b) *restoring or rehabilitating a site on which the exemption user has carried out operations covered by paragraph (a):*
 - (i) *to a reasonable approximation of its condition before any mining or prospecting operations were carried out at the site; or*
 - (ii) *to a lesser condition;*
 - (c) *an activity that is ancillary (as defined by section 10) to one or more activities covered by paragraph (a) or (b);*
 - (d) *an activity that is ancillary (as defined by section 10) to one or more activities covered by paragraph (c).*
- (2) *Eligible raw materials and parts (as defined by section 11) in relation to activities covered by subitem (1).*
- (3) *This Item does not cover:*
 - (a) *generally-excluded property (as defined by section 12);*
 - (b) *a general-purpose road vehicle, unless it is for use exclusively:*
 - (i) *within premises controlled by the exemption user and used by the exemption user mainly in carrying out one or more activities covered by subitem (1); or*
 - (ii) *in going between adjacent premises covered by subparagraph (i); or*
 - (iii) *for a combination of both;*

and is not for use, to any extent, in any part of premises described in subparagraph (i) that is used, or for use, mainly in connection with a township, accommodation complex or similar place;

²⁹ Subsection 3(2) of the ST(E&C) Act.

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- (c) *goods for use mainly in connection with administrative activities (other than activities covered by paragraph (1)(c) or (d).*

[See also section 13, which sometimes denies exemption if the exemption goods are for use in connection with property covered by subitem (3).]

- (4) *In this Item, 'mining or prospecting operations' means:*

- (a) *mining operations;*
- (b) *quarrying operations;*
- (c) *exploring or prospecting for deposits that are to be recovered by mining or quarrying operations.*

ITEM 28: [Storage, transport, etc.] [R]

- (1) *Goods for use by a person ('the exemption user') mainly in carrying out one or more of the following activities:*

- (a) *storing, handling, transporting, or dispatching qualifying goods of the exemption user on premises that are controlled by the exemption user, except where the storing, handling, transporting or dispatching is on premises, or parts of premises, used mainly in connection with the retail sale of goods at those premises to the general public;*
- (b) *an activity that is ancillary (as defined by section 10) to one or more activities covered by paragraph (a);*
- (c) *an activity that is ancillary (as defined by section 10) to one or more activities covered by paragraph (b).*

- (2) *Eligible raw materials and parts (as defined by section 11) in relation to activities covered by subitem (1).*

- (3) *This Item does not cover:*

- (a) *generally excluded property (as defined by section 12);*
- (b) *a general-purpose road vehicle, unless it is for use exclusively:*
 - (i) *within premises that are controlled by the exemption user (not including so much of those premises as is used, or for use, mainly in connection with the retail sale of goods at those premises to the general public); or*
 - (ii) *in going between adjacent premises covered by subparagraph (i); or*
 - (iii) *for a combination of both.*

[See also section 13, which sometimes denies exemption if the exemption goods are for use in connection with property covered by subitem (3).]

ITEM 36: [Subcontractors]

- (1) Goods (**'the exemption goods'**) for use by a person (**'the exemption user'**) mainly in carrying out one or more activities described in subitem (1) of exemption Item 1, 2, 18, 23, 28, 29, 30, 33, 34 or 35, on behalf of one or more other persons (**'the principals'**). For this subitem to apply, either the condition in subitem (2) of this Item or the conditions in subitem (3) of this Item must be met for each activity (**'countable activity'**) that is relied on to establish that this subitem applies.
- (2) If the exemption goods were for use by the principal concerned mainly in carrying out the countable activity at the place at which the activity is to be carried out by the exemption user, the exemption goods would (in relation to the principal) be covered by the Item in which the countable activity is referred to.
- (3) All the following conditions must be satisfied:
 - (a) the countable activity is to be carried out by the exemption user on premises controlled by the exemption user;
 - (b) the exemption goods are not for use by the exemption user mainly in connection with any business of the exemption user that involves selling goods (other than qualifying goods of the exemption user);
 - (c) the goods would be covered by exemption Item 28 (in relation to the principal concerned) if:
 - (i) the goods were for use by the principal mainly in carrying out the countable activity on the premises at which the activity is to be carried out by the exemption user; and
 - (ii) those premises were controlled by the principal.
- (4) Subitems (2) and (3) are to be applied on the assumption that the principal concerned is registered at all relevant times.
- (5) Eligible raw materials and parts (as defined by section 11) in relation to activities covered by subitem(1).

[See also section 13, which sometimes denies exemption if the exemption goods are for use in connection with property that is expressly excluded from the relevant item.]

Section 10 - Activities that are ancillary to one or more higher-level activities

- 10.(1)** For the purposes of Chapter 1, the following activities of a person (**'the exemption user'**) are ancillary to one or more other activities (**'the higher-level activities'**) carried out by the exemption user:
 - (a) scheduling, sequencing, monitoring, controlling or costing the higher-level activities;
 - (b) ordering, storing, handling, transporting, monitoring, controlling, costing, repairing or maintaining any of the following:

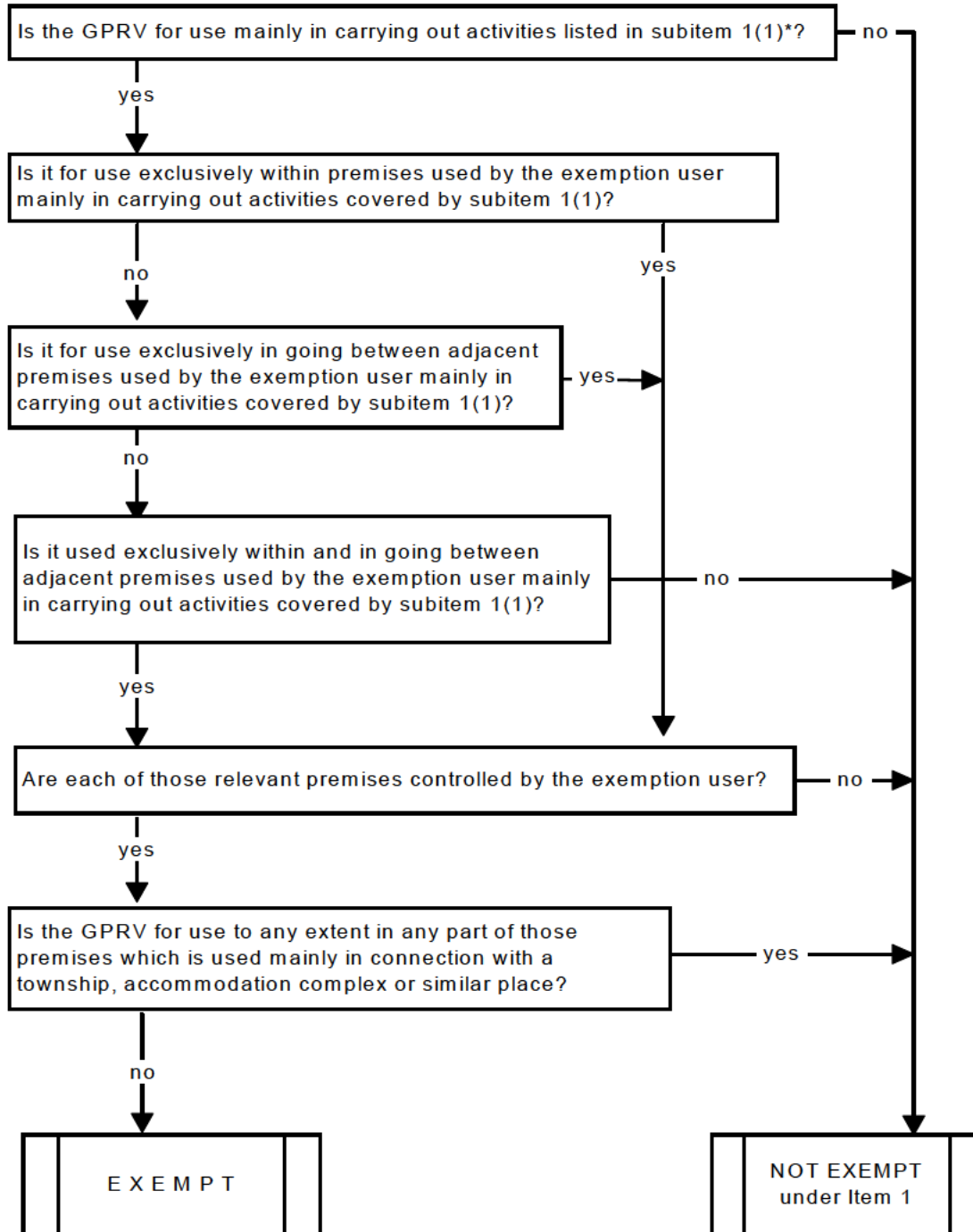
- (i) *goods/equipment used, or for use, mainly in carrying out the higher-level activities;*
 - (ii) *if each of the higher-level activities consists of applying a process or treatment to goods as described in paragraph (a) or (b) of the definition of 'manufacture-related activity' in exemption Item 18 - the goods to which that process or treatment is applied;*
 - (iia) *materials wholly or partly out of which wholesaler's-materials goods in relation to the exemption user are to be manufactured;*
 - (iii) *goods for use exclusively as raw materials in the on-site construction of goods/equipment for use mainly in carrying out the higher-level activities;*
 - (iv) *goods for use exclusively as parts for goods/equipment for use mainly in carrying out the higher-level activities;*
 - (v) *goods for use exclusively as raw materials in repairing or maintaining goods/equipment for use mainly in carrying out the higher-level activities;*
- (c) *training people, or preparing materials for training people, if the training is mainly for the purpose of developing, improving or maintaining their skills in performing the higher-level activities;*
- (d) *an activity that is undertaken mainly for one or more of the following purposes:*
 - (i) *providing access to a building, or part of a building, that is used, or for use, mainly in carrying out the higher-level activities; (ii) providing lighting for the purpose of carrying out the higher-level activities;*
 - (ii) *providing lighting for the purposes of carrying out the higher-level activities;*
 - (iii) *controlling temperature in an eligible area;*
 - (iv) *covering floors or windows in an eligible area;*
 - (v) *monitoring or controlling pollution that results from carrying out the higher-level activities;*
 - (vi) *disposing of waste products that result from carrying out the higher-level activities; (vii) producing, supplying or regulating power (including electricity, gas, compressed air or hydraulic power) for use in carrying out the higher-level activities;*
 - (vii) *producing, supplying or regulating power (including electricity, gas, compressed air or hydraulic power) for use in carrying out the higher-level activities;*
 - (viii) *transporting people (otherwise than by air or sea), within an eligible area, in order to assist them to carry out the higher-level activities;*

- (ix) *monitoring the weather for a purpose related to carrying out the higher-level activities;*
- (x) *preventing accidents in an eligible area, where the accidents involve persons carrying out the higher-level activities;*
- (xi) *treating injuries in an eligible area, where the injuries occur in an eligible area to persons carrying out the higher-level activities;*
- (xii) *preventing people who are carrying out the higher-level activities from being injured while in an eligible area;*
- (xiii) *preventing, detecting or extinguishing fires in an eligible area;*
- (xiv) *cleaning or de-contaminating an eligible area;*
- (x) *providing security for an eligible area;*
- (xvi) *monitoring, supplying or regulating water for use mainly in carrying out the higher-level activities;*
- (xvii) *providing communications for the purpose of carrying out the higher-level activities.*

(2) *In this section:*

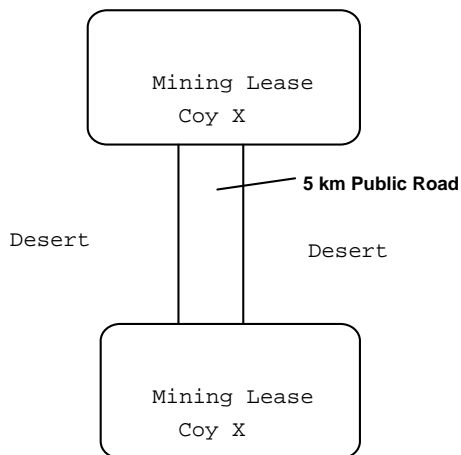
'eligible area' *means an area that is used, or for use, mainly in carrying out the higher-level activities;*

'goods/equipment' *means goods, or machinery, implements or apparatus.*

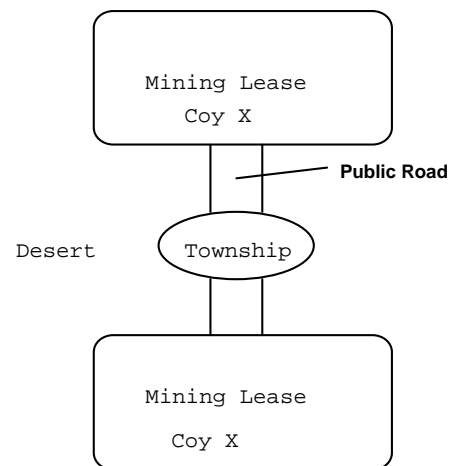
Appendix 2 Item 1 Exemption for General-purpose Road Vehicles

*Subitem 1(1) includes certain:

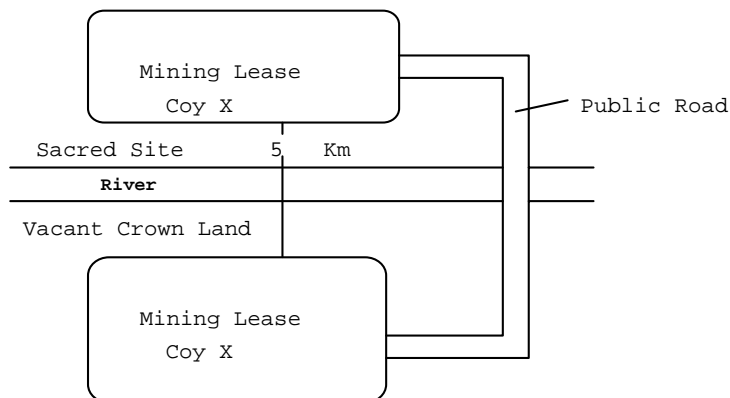
- mining operations
- prospecting and exploration activities
- restoration or rehabilitation activities
- ancillary activities

Appendix 3 Examples of Adjacency**GPRVs Operating in Remote Areas****Example 1**

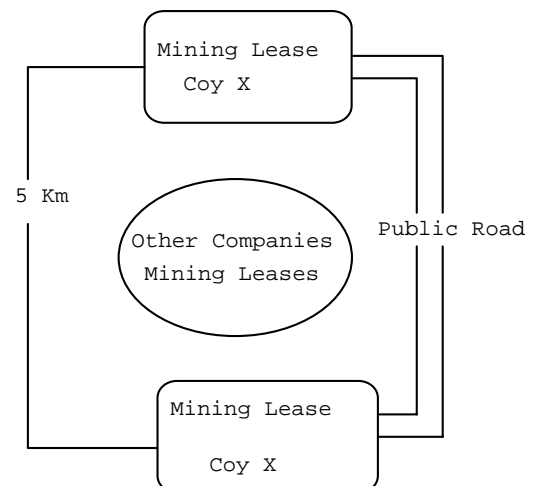
- i. Control: No because of travel on public road.
 - ii. Adjacent: Yes
- Exemption applies.

Example 2

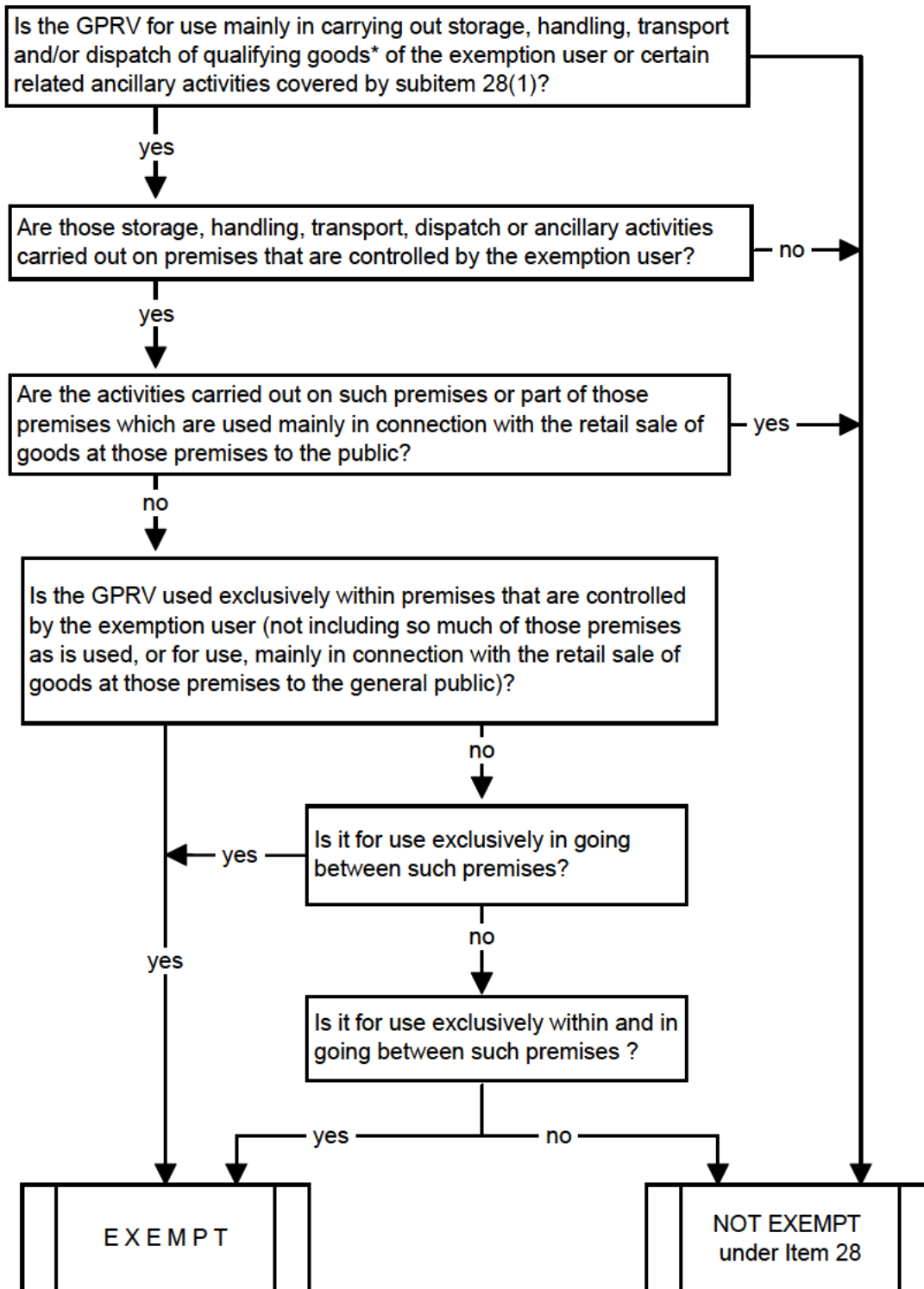
- i. Control: No. Travel on public road.
 - ii. Adjacent: No. Separated by townsite.
- Exemption does not apply.

Example 3

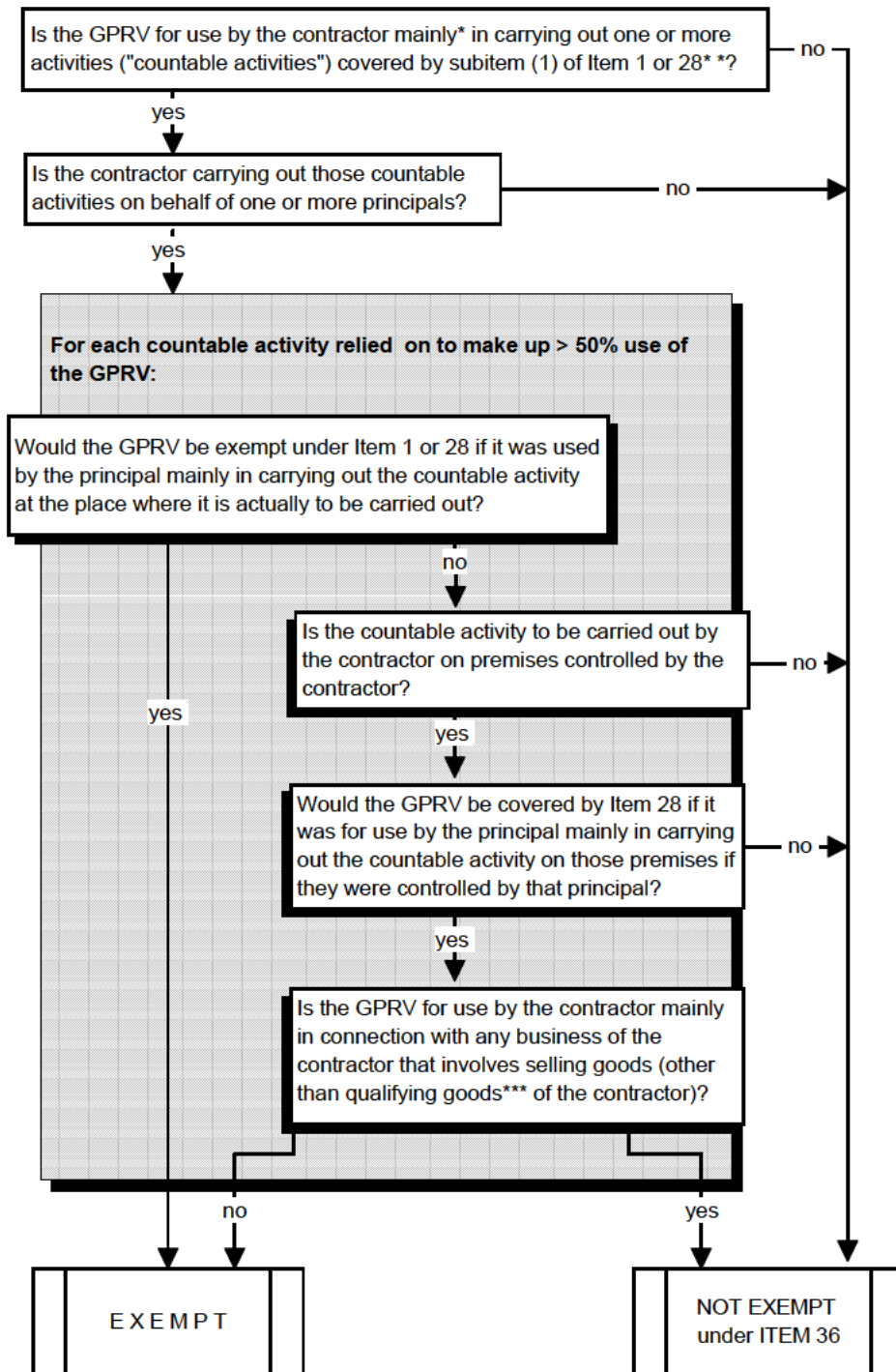
- i. Control: No. Travel on public road.
 - ii. Adjacent: Yes.
- Exemption Applies.

Example 4

- i. Control: No. Travel on public road.
 - ii. Adjacent: No. The property is separated by other properties.
- Exemption does not apply.

Appendix 4 Item 28 Exemption for General-purpose Road Vehicles

**"qualifying goods" is explained at paragraph 4.4 in the Ruling*

Appendix 5 Item 36 Exemption for General-purpose Road Vehicles

*More than 50%

** There are other items referred to in Item 36 that are not covered by this ruling

*** Qualifying goods is explained at paragraph 4.4 in this ruling