

STD 96/4 - Instructional material packaged with goods



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

Sales Tax Determination

Title: **Instructional material packaged with goods**

Background

Material such as videos, manuals, books, leaflets or pamphlets that provide instructions on the operation, assembly, care, safety or maintenance of goods are ordinarily classified separately from any goods to which they relate.

However, where goods are packed and secured with the other goods, they may become ancillary items under the container definition. Where this occurs, their value is included with the value of the other goods and taxed at the same rate (if any) applicable to them.

This determination sets out the ATO view on the sales tax treatment of instructional material and explains when it becomes an ancillary item to a container.

Issue

How is instructional material that is packed or secured with goods treated for sales tax purposes?

Decision

1. Instructional material that is packed or secured with goods (the contents) and provides instructions or guidance on the operation, assembly, care, safety or maintenance of the contents is covered by the *container* definition in *section 5* of the *Sales Tax Assessment Act 1992* (the Act). Where no exemption applies to the contents, the value of this material forms part of the taxable value of the contents or, if invoiced or charged separately, *section 35* of the Act ensures the value of the material is added to the taxable value of the contents.

2. Material that is packed or secured with contents, but provides information other than the type specified in 1. above, does not fall within the container definition. For example, a recipe book packed with a microwave oven does not fall within the container definition.
3. Material that is packed or secured with contents, and contains information of the type described in 1. above, plus significant information of a different type, will need to be considered according to its essential character.

Date of effect

This determination confirms advice that has previously been given by private rulings and is effective immediately.

Reasons

Material such as manuals, books, leaflets, pamphlets or sheets providing instructions or guidance on the operation, assembly, care, safety or maintenance of goods, would generally be exempt printed matter under *item 100 of Schedule 1 to the Sales Tax (Exemptions and Classifications Act) 1992* (E&C Act). Exemption under this item would apply to the transaction between the printer and the purchaser of the instructional material. Videos providing the same information would be taxed at the rate set out in *Schedule 4 to the E&C Act*, as there is no exemption applicable to them.

We have based our decision on the following legislative provisions:

However, there are specific provisions designed to ensure the same tax treatment applies to containers and their contents. In particular, *section 5* of the Act defines *container* as:

Section 5 of the Sales Tax Assessment Act 1992, definition of "container".

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

The phrase *ancillary items* is not defined in the law; however, the Macquarie Dictionary defines *ancillary* as:

1. *accessory; auxiliary*
2. *an accessory, subsidiary or helping thing or person.*

Auxiliary is defined as:

1. *giving support; helping; aiding; assisting.*

Based on these definitions, goods that are packed or secured with contents and aid or assist in the use of them will be ancillary items. The ATO has received submissions arguing that, according to the examples given in the Explanatory Memorandum (EM) to the Act, *ancillary items* should be goods that have a physical connection with the contents. However, the EM states that ancillary items will *include* such things as can keys, glass droppers, drinking straws and batteries. The use of the word *include* indicates that the list is not exhaustive. The EM makes it clear that separate goods such as batteries will have the same tax treatment as the contents when they are covered by the container definition. It is therefore not necessary that ancillary items be attached to or be in contact with the contents as long as they are packed or secured with them in the main container.

Where instructional material aids or assists in the use of the contents, the act of packing or securing it with the contents will usually demonstrate an intention on the part of the manufacturer that it be used in this way, even if there is minimal use by the eventual consumer.

Section 35 of Sales Tax Assessment Act 1992.

For these reasons, instructional videos, manuals, books, pamphlets and leaflets, of the type described in point 1. of the decisions section, fall within the definition of *container*. They are *ancillary items* that are *packed* or *secured* with the contents and are intended and reasonably necessary to allow or facilitate the use of the contents. The value of this type of instructional material should therefore either be included in the taxable value of the contents or, if it is invoiced or charged separately, *section 35* of the Act, will ensure that the value of the material is added to the taxable value and taxed at the same rate that applies to the contents.

**Communication
of the Decision**

This document has been made available for publication by the sales tax publishing houses.

Commissioner of Taxation

27 March 1996

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Related Determinations:

Related Rulings: ST(NS) 3001

Subject Ref: instructional material packaged with goods: containers

Legislative Ref: section 5, section 35, STAA 1992: item 100 to Schedule 1, ST(E&C) Act 1992;
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