

ST 2449 - SALES TAX : CONCESSIONS FOR DIPLOMATIC MISSIONS AND CONSULAR POSTS AND ELIGIBLE PERSONNEL

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TAXATION RULING NO. ST 2449

SALES TAX : CONCESSIONS FOR DIPLOMATIC MISSIONS AND
CONSULAR POSTS AND ELIGIBLE PERSONNEL

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1211526	DIPLOMATIC AND CONSULAR SALES TAX PRIVILEGES	DIPLOMATIC PRIVILEGES AND IMMUNITIES ACT 1967; CONSULAR PRIVILEGES AND IMMUNITIES ACT 1972

PREAMBLE This Ruling discusses the sales tax privileges available to diplomatic missions, consulates and their personnel in Australia.

2. The Diplomatic Privileges and Immunities Act and Consular Privileges and Immunities Act provide a range of privileges including exemptions from customs and excise duties and sales tax. These Acts give the force of law to the privileges agreed to under the Vienna Conventions on Diplomatic and Consular Relations and confer some additional privileges, e.g., exemptions from sales tax for excisable goods in prescribed cases.

3. Amendments have been passed recently to the Diplomatic Privileges and Immunities Act and Consular Privileges and Immunities Act to provide that goods purchased from registered sales taxpayers for the official use of the missions and posts of prescribed overseas countries shall be exempt from Australian sales tax. A "prescribed overseas country" is defined as a country prescribed by regulations by the Governor-General. A country will be prescribed by regulations only where the foreign State is providing reciprocal sales tax or V.A.T. exemption to Australia and where it is in Australia's financial interest to do so.

4. The exemption for the prescribed overseas country will be confined to purchases from a registered person, that is, a manufacturer or wholesale merchant who is registered under the sales tax law. A mission or post of a prescribed overseas country will not be entitled to exemption for purchases of taxable goods from retailers who are not registered persons. Further, exemption applies only to goods purchased for the official use of the mission or post. Personnel of such missions or posts will not be entitled to any exemptions under those provisions for goods for their own personal use.

5. No regulations have been passed yet to make any overseas country a prescribed country. The sales tax concessions at present available to missions and posts are set out in paragraphs 6 to 15 of this Ruling. They apply to all missions, posts, and personnel. Further Taxation Rulings will be

published to discuss the sales tax position of any prescribed overseas country prescribed under future regulations by the Governor-General.

RULING

6. A table is set out in paragraph 8 showing the broad sales tax exemptions currently available to all missions and posts and eligible personnel in relation to imported goods and excisable goods (e.g. Australian spirituous liquors and beers). The exemptions for those goods are administered by the Diplomatic Section of the Australian Customs Service and are subject to certain limitations as to quantity and to certain conditions, e.g., as to disposal.

7. Exemptions are generally not available to service staff not directly attached to diplomatic missions and consular posts nor are they available to Australian Nationals or permanent residents of Australia.

8.

MISSION POST ETC	USE OF GOODS	IMPORTED GOODS	EXCISABLE GOODS
DIPLOMATIC MISSIONS	OFFICIAL	EXEMPT	EXEMPT
(a) DIPLOMATIC AGENTS	PERSONAL	EXEMPT	EXEMPT
(b) FAMILIES OF (a)	PERSONAL	EXEMPT	EXEMPT
(c) ADMINISTRATIVE AND TECHNICAL STAFF	PERSONAL	EXEMPT FIRST INSTALLATION ONLY	NOT EXEMPT
(d) FAMILIES OF (c)	PERSONAL	EXEMPT FIRST INSTALLATION ONLY	NOT EXEMPT
(e) OTHER STAFF	PERSONAL	NOT EXEMPT	NOT EXEMPT
CONSULAR POSTS - HEADED BY CAREER CONSUL	OFFICIAL	EXEMPT	EXEMPT
(a) CAREER CONSULAR OFFICERS	PERSONAL	EXEMPT	EXEMPT
(b) FAMILIES OF (a)	PERSONAL	EXEMPT	EXEMPT
(c) ADMINISTRATIVE AND TECHNICAL STAFF	PERSONAL	EXEMPT FIRST INSTALLATION ONLY	NOT EXEMPT
(d) FAMILIES OF (c)	PERSONAL	NOT EXEMPT	NOT EXEMPT
(e) OTHER STAFF	PERSONAL	NOT EXEMPT	NOT EXEMPT
CONSULAR POST - HEADED BY HONORARY (NON CAREER) CONSUL	OFFICIAL	CERTAIN GOODS	CERTAIN
GOODS		EXEMPT	EXEMPT
(a) HONORARY (NON CAREER) CONSUL	PERSONAL	NOT EXEMPT	NOT EXEMPT
(b) FAMILIES OF (a)	PERSONAL	NOT EXEMPT	NOT EXEMPT

9. Imported Goods

Exemption for imported goods is restricted to goods which at the

time of clearance for home consumption are intended for the official use of a diplomatic mission or consular post or the personal use of an eligible person. Exemption does not apply to goods purchased after they have been cleared for home consumption. There are restrictions as to the quantity of certain goods that may be imported by each person and other conditions apply, e.g., motor vehicles - eligible persons agree that they will not be sold or otherwise disposed of within three years without repayment of pro rata customs duties and sales tax.

Purchases of goods in Australia (other than Motor Vehicles)

10. The exemptions for excisable goods are administered by the Diplomatic Section of the Australian Customs Office and are confined to goods cleared from a Customs licensed warehouse. The range of goods subject to excise is limited. The most common examples of goods subject to excise are beer, spirits, tobacco products and petroleum.

11. Apart from the limited sales tax exemptions for excisable goods, exemption from sales tax is not available for goods purchased in Australia by diplomatic missions and consular posts nor to any staff member unless the mission becomes a "prescribed overseas country" - refer paragraphs 3, 4 and 16 of this Ruling.

12. It follows that missions, posts and their personnel are not entitled to sales tax exemption for any taxable goods, whether locally produced or imported, that are purchased from local vendors, e.g., wholesalers and retailers. Exemption also is not available for excisable goods that have already been cleared from a Customs licensed warehouse.

13. Some vendors, such as wholesalers and retailers, and other interested parties have been uncertain whether sales tax exemptions do apply, e.g., to furniture, furnishings, office equipment and stationery for the official use of missions. The general position is that no special exemptions are available under the present law for local purchases of taxable goods, whether they are for official or personal use of missions, personnel and their families.

Australian-made Motor Vehicles

14. There has been in operation for many years a scheme whereby missions, posts and eligible personnel can purchase Australian-made vehicles free of sales tax. The concession is subject to the same kinds of restrictions and conditions as explained in paragraph 9 and is administered by the Australian Customs Service.

15. The eligible person seeking freedom from tax is required to carry out the following procedures -

- . he or she completes the application for the privilege and sends it to the Protocol Branch of the Department of Foreign Affairs requesting purchase under privilege after firm arrangements have been made for the purchase of the vehicle. The Protocol Branch is responsible for approving (or otherwise) the eligibility of the applicant;

- . on approval as to eligibility the applicant forwards the application to the Australian Customs Service for its approval, and Customs takes into account any previous vehicles imported or purchased by the applicant;
- . the application when approved is the authority to indicate to the motor vehicle dealer that the Australian-made or assembled vehicle may be sold to the diplomat etc at a price exclusive of sales tax;
- . the dealer is, however, required to purchase the vehicle at a price that includes sales tax and tax is paid by the registered wholesaler to the Australian Taxation Office;
- . the dealer then applies to Customs for a payment of an amount equal to the tax which has been paid by him to the wholesaler and not passed on to the approved buyer.

Prescribed Overseas Missions

16. As mentioned in paragraph 5, no regulation has been passed yet to make an overseas country a prescribed overseas country. However, the conditions that will need to be satisfied for a country to be prescribed and to be entitled to exemption from sales tax will be -

- (a) The goods must be purchased directly from a registered manufacturer or wholesale merchant by or on behalf of the head of a mission of the prescribed overseas country.
- (b) The goods are intended for the official use of the mission. This condition means that individual employees of the mission cannot purchase, free of sales tax, goods intended for their own personal use. It also ensures that sales tax exemptions will not be available where the mission purchases goods as the agent of a third party.
- (c) The head of mission must have agreed that goods purchased free of sales tax will be disposed of or otherwise dealt with in accordance with any conditions set out in the amendments, e.g., where goods purchased free of tax are disposed of within two years of being acquired the sales tax that would have been payable if the mission had not been exempt will become payable. The Treasurer, however, has the power to waive the payment of sales tax in particular circumstances where it would be unreasonable to require the sales tax to be payable, e.g., where goods have been destroyed.

Consular Post-Headed by Honorary (Non Career) Consul

17. The Consular Post is allowed limited sales tax exemption for the following classes of goods cleared by Customs -

- (a) coats-of-arms, flags, signboards, seals & stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State, providing they are, when cleared by Customs, intended for the official use of a consular mission headed

by a person who is an honorary consul.

(b) certain quantities of spirituous liquors, cigarettes and cigars that, when cleared by Customs, are for use at official functions given by such a consul in connection with approved special occasions.

18. The post is not entitled to any sales tax concessions for goods (including motor vehicles) purchased locally for its use.

COMMISSIONER OF TAXATION
8 December 1988