

SST 6 - Sales Tax: taxable value



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Taxation Ruling

Sales tax: taxable value

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Chapter 1: What this Ruling is about

Overview

- 1.1 Under the sales tax law¹, the amount of tax payable on assessable goods is determined by multiplying what is known as the taxable value of the goods by the tax rate applicable to the goods. This Ruling explains the rules for determining the correct taxable value of goods and provides some administrative guidelines supporting those rules.
- 1.2 This Chapter summarises the Table of normal taxable values set out in the sales tax law (referred to as *Table 1*) and includes comments on how to use and apply this Ruling. It also outlines several important principles that qualify the rest of the Ruling. Chapters 2 to 4 discuss the meaning of the terms used in Table 1 and provide short cut methods to calculate taxable values for arm's length transactions. Chapter 5 deals with non-arm's length transactions.
- 1.3 In some cases, amounts must be added to the normal values set out in Table 1 and, in others, amounts are excluded from the normal value before applying the rate of tax.² In special cases, the normal taxable values are replaced with substitute values.³ These situations are dealt with in Chapters 6 to 8. Chapter 9 explains how this Ruling affects previous rulings. Chapter 10 contains a glossary of the important terms used in this Ruling, referring to the main paragraphs where they are discussed and italicised.

Safe Harbours

- 1.4 In addition to providing more detail about what is meant by the expressions used in the sales tax law, this Ruling sets out some simple guidelines to provide greater certainty for taxpayers and make their calculation of taxable value easier. These practical guidelines are termed *Safe Harbours*.

¹ The term 'sales tax law' refers to the *Sales Tax Assessment Act 1992*, the *Sales Tax (Exemptions and Classifications) Act 1992*, the *Sales Tax Amendment (Transitional) Act 1992* and the related imposition Acts and Regulations.

² The additions to the normal taxable values are set out in Subdivision B of Division 3 of Part 3 of the *Sales Tax Assessment Act 1992* and the exempt parts in Division 4.

³ See Subdivision C of Division 3 of Part 3 of the *Sales Tax Assessment Act 1992*.

- 1.5 While Safe Harbours are not mandatory, if taxpayers apply them and pay sales tax at the correct rate they will have met their sales tax liability for that transaction in full. Safe Harbours are numbered for ease of reference and look like this:

Safe Harbour

A statement of how to calculate taxable value that the Taxation Office accepts as completely discharging the taxpayer's liability.

- 1.6 Taxpayers may calculate a taxable value for each individual assessable dealing or adopt a Safe Harbour. When using a Safe Harbour, they may calculate components of it for a set period in the past (say, the previous 12 months) and apply the resulting figure to future dealings for a similar period. For example, a printer may choose to use Safe Harbour 4, for which they might need to know the manufacturing cost of goods sold. While the cost of materials and cost of direct labour may be easy to calculate in relation to each job, the production overheads often cannot be calculated until well after the job has been completed. In this case, the printer can calculate average production overheads for the previous year and use that figure in calculating the taxable value under Safe Harbour 4 for the next year.
- 1.7 A taxpayer who elects to use a Safe Harbour for a class of goods must apply it to all transactions with those goods. For example, a manufacturer who only sells one class of goods by retail and wishes to use Safe Harbour 4, must apply it to all retail sales, rather than simply applying it to selected ones.
- 1.8 The protection offered by Safe Harbours (under section 77 of the *Sales Tax Assessment Act 1992*) only applies to taxpayers who act on them, according to the terms of this Ruling. Taxpayers cannot review their taxable values at the time of an audit to see whether another Safe Harbour might have provided a better result and expect section 77 protection to apply. Similarly, where taxpayers change their method of calculation of taxable value, for example, by choosing to adopt a Safe Harbour that results in a lower taxable value than that on which previous returns have been based, the Safe Harbour operates prospectively and does not generate a credit entitlement as tax overpaid in the past. However, if adopting a particular Safe Harbour results in a taxpayer paying more tax than should have been paid, the extra tax will have been tax overpaid. Note also that, where a taxpayer attempts to adopt a Safe Harbour but makes an error in calculating the taxable value, an auditor will usually accept the lower of the figure based on general principles and that calculated correctly under the Safe Harbour.

- 1.9 All Safe Harbours in Chapters 2 to 5 are subject to the *Additions to normal taxable values* (dealt with in Chapter 6) and *Exempt parts of taxable values* (dealt with in Chapter 7), but no other discounting. Values set under agreements between taxpayers and the Taxation Office (under section 43, dealt with in Chapter 8) will be inclusive of these adjustments unless otherwise stated.

Miscellaneous rules for calculating taxable value

Apportionment of amounts

- 1.10 Where there is a need to know the price for which particular goods were sold, but the parties to the sale have not allocated a particular amount to those goods, the sales tax law provides that the price of the goods is the price for which they could reasonably be expected to have been sold if sold separately.⁴
- 1.11 The Chapters that follow show how to calculate taxable values for goods sold singly or with others taxable at the same rate. If taxable and exempt goods, or goods that are taxed at different rates, are sold together for one inclusive price, then the goods will be treated separately for the purposes of calculating taxable value.
- 1.12 Sometimes where goods taxed at different rates are packaged and sold together for one inclusive price, that sale price is less than the sum of the individual prices of the goods. Effectively, the individual prices of the goods are discounted by being sold as a package. In the absence of evidence to show a better apportionment, each of the taxable values should be discounted in proportion to the discount allowed for the package. For example, if soap with a wholesale price of \$10 and a face washer with a wholesale price of \$5 are sold in a package for \$12, the discount from the sum of the individual prices is 20%. This discount is applied to both articles to produce a wholesale taxable value of \$8 for the soap and \$4 for the face washer.

Application of the general anti-avoidance provisions

- 1.13 This Ruling must be read subject to the proviso that, where the criteria for the application of the general anti-avoidance provisions⁵ (referred to later as the GAAP) are met, the Commissioner may make an assessment under section 93A of the *Sales Tax Assessment Act 1992*, cancelling a tax benefit obtained under a tax avoidance scheme. From time to time, the Taxation Office will issue Sales Tax Determinations identifying situations to which the GAAP apply.

⁴ See section 95(1) of the *Sales Tax Assessment Act 1992*.

⁵ These provisions are set out in Division 1 of Part 8 of the *Sales Tax Assessment Act 1992*.

Arm's length rule

- 1.14 Where parties are not dealing at arm's length and this affects the price of the goods, the sales tax law requires that the taxable value of the goods reflects a price for which the goods could reasonably be expected to have been sold under an arm's length transaction. An explanation of how this rule works is given in Chapter 5. All other Chapters must be read as subject to this rule.

Record keeping

- 1.15 Taxpayers must keep adequate records of the method of calculating the taxable value they have adopted, including records of the basis on which the taxable value was calculated, for at least 5 years.⁶

The table of normal taxable values

- 1.16 Table 1 sets out the normal taxable values for each *assessable dealing* with goods.⁷ This Table is summarised as follows:

⁶ See section 127 of the *Sales Tax Assessment Act 1992*.

⁷ Some of the terms used in this Table are defined in the law. These definitions are included in the body of the Ruling and the Glossary.

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	Assessable dealing	Normal taxable value
AD1a	Wholesale sale by a person who manufactured the goods in the course of any business	the price (excluding sales tax) for which the goods were sold
AD1b and AD11b	Wholesale sale by non-manufacturer or importer	the price (excluding sales tax) for which the goods were sold
AD2a	Retail sale by the manufacturer	the notional wholesale selling price
AD2b and AD12b	Retail sale (other than indirect marketing) by a person who obtained the goods under quote	the notional wholesale selling price
AD2c and AD12c	Retail sale of goods for which a royalty cost was incurred at or before the time of sale.	the amount that would be the notional wholesale purchase price if the manufacturer or importer had incurred the eligible royalty costs
AD2d and AD12d	Indirect marketing sale as defined by section 20	the notional wholesale selling price
AD2e and AD12e	Untaxed-goods sale by a person who is not the manufacturer	the notional wholesale selling price
AD3a and AD13a	Untaxed-goods AOU by a person who is not the manufacturer	the notional wholesale selling price
AD3b	AOU by the manufacturer	the notional wholesale selling price
AD3c and AD13c	AOU by non-manufacturer of goods who obtained the goods under quote	(a) if the goods were purchased under quote, the purchase price; (b) if the goods were locally entered under quote by the applier: 120% of (customs value plus customs duty) (c) in other cases, the notional wholesale selling price
AD3d and AD13d	AOU for which a royalty cost was incurred at or before the time of AOU	the amount that would have been the notional wholesale purchase price of the goods if the manufacturer or importer had incurred the eligible royalty costs mentioned in section 19
AD4a	Delivery of customer's materials goods as defined by section 22	the amount (excluding sales tax) charged to the customer plus the notional wholesale purchase price of any always exempt materials supplied by the customer
AD4b and AD14b	Removal of airport shop goods from a customs clearance area	the price for which the goods were purchased by the relevant traveller
AD10	Local entry	120% of (customs value plus customs duty)

Chapter 2: The price for which goods were sold

Where this taxable value applies

2.1 The price (excluding sales tax) for which the goods were sold is the normal taxable value specified in Table 1 for:

- wholesale sales by a person who manufactured the goods in the course of any business (AD1a); and
- wholesale sales by a person who is not the manufacturer of the goods (AD1b and AD11b).

Thus, this value applies to all taxable wholesale sales.

2.2 The term, *the price for which the goods were sold*, means the total amount that the buyer promises, expressly or tacitly, to pay to get good title to the goods.⁸ As a general rule, all amounts charged by the seller in relation to the supply of goods up to the point when the property in the goods passes to the buyer, form part of the price for which the goods were sold.

2.3 Where the contract simply involves the supply of goods, the contract price will be the price for which the goods are sold. However, the contract price may be varied by the amount of rebates and other deductions or additions that flow from an express or implied term of the contract and some services that relate to goods may be the subject of separate contracts between the vendor and purchaser. Where the contract is for a single amount including services (such as installation) that are not essential to the contract of sale of the goods, the contract price may need to be apportioned (see paragraphs 1.10 to 1.12). In other cases, amounts in separate contracts will need to be added back to the contract price to establish the taxable value of goods.

2.4 Situations in which:

- delivery charges;
- finance charges;
- warranty charges; and

⁸. See the comments of Windeyer J in *EMI (Australia) Limited v. FC of T* 71 ATC 4112 at 4118; (1971) 2 ATR 325 at 330.

- trade incentive payments

form part of the taxable value are dealt with under separate headings below.

Delivery charges: freight and insurance costs

2.5 The price for which the goods were sold will include charges for freight, postage or insurance where goods are sold under a contract that provides that the sale price includes delivery.⁹ Where delivery is the subject of a separate contract, delivery charges will not form part of the sale price unless the GAAP applies or the charges are not at arm's length prices. While it is not possible to rule exhaustively about the GAAP, the provisions will not be applied to separate sale and delivery contracts, provided that the purchaser does not have to pay all or part of the delivery charge in order to get good title to the goods. This will be demonstrated when:

- the parties genuinely intend property in the goods to pass without delivery at the price stated (e.g., there are no additional charges to customers who arrange for their own delivery and reasonable access is provided for them to collect the goods themselves); and
- the amount for delivery is a competitive commercial charge, rather than reflecting a reduction in the price of goods. That is, the charge does not exceed the amount that would have been charged to the buyer by an independent carrier (taking into account all the circumstances surrounding the transaction, including the buyer's ability to negotiate discounts).

2.6 Freight equalisation arrangements are in common use by vendors who sell goods and arrange delivery (under separate contracts). A freight equalisation arrangement is one where charges for delivering goods to customers are averaged to avoid huge differences, resulting in some customers being subsidised, and others paying more. The charges may be levied as a percentage of the invoiced price of the goods or as a flat charge and, because the percentage relates to average delivery costs over a given period, it will be practically very difficult to satisfy the test in paragraph 2.5 in relation to all transactions between seller and buyer.

2.7 Furthermore, some taxpayers sell goods under contracts that include a 'retention of title' (or *Romalpa*¹⁰) clause. In some circumstances, these clauses can delay the time at which property passes until, for example, payment for the goods has been made in full. The mere presence of a *Romalpa* clause does not automatically mean that

⁹. See *Commonwealth Quarries (Footscray) Pty Ltd v. FC of T* (1938) 59 CLR 111.

¹⁰. See *Aluminium Industries Vassen BV v. Romalpa Aluminium Ltd* [1976] 2 All ER 552; [1976] 1 WLR 676. The Taxation Office will issue a separate Ruling providing more detail on the effect of *Romalpa* clauses.

delivery charges will form part of the price for which the goods were sold. However, if the delivery charges need to be paid for the purchaser to get good title to the goods, those charges form part of the price of those goods and should be included in their taxable value.

- 2.8 In the circumstances described in paragraphs 2.5 to 2.7, it may be difficult and costly for vendors to establish a competitive commercial charge for delivery of goods. As a result, the Taxation Office provides the following Safe Harbour:

Safe Harbour 1

Where there is a separate contract for delivery of goods between the vendor and purchaser, the GAAP will not be used to include delivery charges in the taxable value of goods sold by wholesale provided that:

- reasonable access is provided for purchasers who wish to collect the goods themselves;
- there are no additional charges to purchasers who arrange for their own delivery; and
- the amount charged by the vendor for delivery does not exceed the cost to the vendor plus 10% of that amount.

This Safe Harbour applies to individual transactions and freight equalisation arrangements, whether or not the sale of goods is subject to a *Romalpa* clause.

Note: Where an independent carrier is used, cost equals the amount actually charged by the independent carrier plus any additional transit insurance.

Finance charges

- 2.9 Some taxpayers levy a finance charge, often expressed as a percentage of the price of the goods, for late payment of the amount invoiced and due. Whether finance charges form part of the taxable value of the goods will depend on the terms of the contract entered into between the parties.

- 2.10 If the finance charge must be paid to get good title to the goods, it will form part of the price for which the goods were sold and therefore be part of the taxable value. On the other hand, if the finance charge operates merely as a deterrent to late payment for the goods, beyond the vendor's usual trading terms, it will not comprise a part of the price for which the goods were sold. Any arrangements where there are artificially high or contrived finance charges may be subject to the GAAP.

Warranty charges

- 2.11 New goods sold to consumers in Australia are sold with warranties, at least part of which are required by Federal or State legislation. Where the terms of trade between a manufacturer or wholesaler and a retailer require the retailer to accept the manufacturer's or wholesaler's warranty arrangements and pay a warranty charge in addition to the amount that is stated to be the price of the goods, that warranty charge forms part of the price for which the goods were sold and therefore part of the taxable value.
- 2.12 Some manufacturers and wholesalers offer *extended warranty* cover for their products. The extended warranties are variously described, but are generally a form of insurance protecting consumers from the costs of repair beyond their orthodox warranty cover and the seller's statutory obligations. In these situations, in determining the amount for which the goods were sold by the manufacturer or wholesaler to the retailer, it is necessary to establish what goods the retailer had agreed to buy, and what consideration had to be paid for them to obtain a good title to the goods purchased.
- 2.13 Where the contractual arrangements between the manufacturer or wholesaler and the retailer establish that the extended warranty is separate and distinct from the purchase by the retailer of the goods to which the extended warranty relates, the charge applicable to the extended warranty will not form part of the taxable value.¹¹
- 2.14 Where the value of warranty parts is included in the taxable value, the taxpayer is entitled to a credit under Credit Ground 9 for sales tax borne on replacement parts or goods that are used to repair or replace defective units under warranty. Where taxpayers adopt one of the Safe Harbours that provide for a taxable value based on cost plus a proportion of the margin or a percentage uplift, the taxable value will be regarded as including the cost of goods used in the warranty parts or replacement goods, provided that there is no separate charge by the taxpayer for the warranty.

¹¹. See *AAT Case 8145* (1992) 23 ATR 1243; *Case Z29 92* ATC 267.

Trade incentive payments

- 2.15 Trade incentive payments are also known variously as trade discounts, trade price rebates, volume rebates, promotional rebates, incentive rebates, co-operative advertising allowances and deferred credits. These incentives, as their names suggest, take many different forms and are allowed by suppliers in many different circumstances. As illustrated in the following paragraphs, some of these incentives will affect the price for which the goods were sold, while others will not.¹²
- 2.16 In considering each type of trade incentive payment, particular attention is given to the terms of the contract. The form of the contract of sale will not, by itself, determine whether the trade incentive payments can be deducted from the stated selling price of the goods to reach the taxable value, nor will the names adopted by one or both of the parties to describe a particular incentive determine the character of the incentive, if their actions or the circumstances disclose a different character. While the sale documentation (such as the trading terms of the buyer and the seller and the way in which the goods are invoiced) is relevant, it must be considered in light of all the circumstances, including an objective assessment of the intentions of the parties. The question whether a discount or rebate is calculated by reference to tax inclusive or tax exclusive prices is not a relevant factor in determining whether the discount or rebate reduces the taxable value.
- 2.17 The following paragraphs set out the Taxation Office's view of the basic principles involved in determining whether trade incentive payments affect the price for which the goods were sold.

Trade incentive payments which reduce taxable value

- 2.18 To reduce the taxable value of goods in a particular transaction, the payment must relate to the sale and the selling price of the goods, so as to bring about a reduction in that price. Factors relevant to determining whether an incentive payment reduces the sale price of the goods include:
- the circumstances surrounding the payment of the incentive;
 - the accounting treatment of the payment in the financial records of the supplier and the retailer; and
 - the terms of trading between the parties and other sales documentation, such as invoices, incentive claim forms and credit notes.

¹² See the comments of Hill J in *Queensland Independent Wholesalers Ltd v. FC of T* 91 ATC 4492 at 4500; 100 ALR 215 at 226 and *AAT Case 50/93* 93 ATC 534; (1993) 27 ATR 1038 for more discussion of circumstances where trade incentive payments affect the price for which the goods were sold.

- 2.19 The following are examples of incentives that reduce the sale price of goods.

Trade discount:

Discounts are often allowed to trade customers at the time of sale of the goods. In some cases the goods will be invoiced at the discounted price (that is, the discount will not be shown separately), while in other situations the goods will be invoiced at their full price, with the trade discount shown on the invoice to arrive at a net price. Irrespective of the method of invoicing a genuine trade discount, the net price will be the price for which the goods were sold.

Volume rebates and deferred credits:

These are rebates and credits that relate directly to the volume or value of the goods sold and are calculated accordingly. If they are directed to some other end (for example, an obligation on the retailer, or employee or associate of the retailer, to incur advertising, promotion or other marketing expenses for the supplier in relation to the goods or for the retailer to offset, against the value of the goods, charges made by the retailer for doing things for the supplier), they will not reduce the price for which the goods were sold. If they are partly directed to some other end, the relevant part will not reduce the price for which the goods were sold.

Settlement discount:

A settlement discount that relates to the value of the goods provided by the supplier, and is allowed because payment is made in cash or is made promptly, will reduce the price for which the goods were sold.

Trade incentive payments which do not reduce taxable value

- 2.20 Some incentive payments do not reduce the taxable value of goods. These include payments made by a supplier to a purchaser as reimbursement, compensation or reward for doing things for the supplier such as advertising, promotion, warehousing, distribution or other marketing activities, accounting, bookkeeping or debt collection functions or allowing the supplier a right to use the retailer's premises or equipment for these activities.

- 2.21 Two specific examples of trade incentive payments that do not reduce the taxable value of goods are:

Promotional rebates:

If a rebate wholly or partly subsidises, compensates or reimburses the retailer for advertising expenditure undertaken on behalf of the supplier it will not reduce the taxable value of goods to that extent. Of course, as pointed out at paragraph 2.16, the mere use of a label, such as *promotional rebate*, will not

necessarily mean that the amount should be added back to the sale price, if the advertising expenditure is to be undertaken on the retailer's own account and the supplier can establish that the net amount was the real sale price. However, as this will often be difficult to determine after the fact, suppliers who intend to allocate an amount to a promotional or advertising rebate are advised to seek a private ruling before excluding that amount from the sale price of goods.

Gondola ends payments:

These payments are made by the supplier for the retailer (for example, a supermarket) providing end-of-aisle display space to promote the supplier's products.

Chapter 3: The notional wholesale selling price

Where the notional wholesale selling price applies

- 3.1 Table 1 provides that the notional wholesale selling price of goods is the taxable value for a number of assessable dealings, most notably:
- retail sales by the manufacturer (AD2a);
 - retail sales of goods obtained under quote by a non-manufacturer (AD2b and AD12b);
 - indirect marketing sales (AD2d and AD12d); and
 - application to own use (AOU) by the manufacturer of goods (AD3b).
- 3.2 The *notional wholesale selling price* is a term defined in the Table to mean the price (excluding sales tax) for which the taxpayer could reasonably have been expected to sell the goods by wholesale under an arm's length transaction. A notional wholesale value needs to be determined for these assessable dealings because the general scheme of the law is to impose tax at the wholesale level.
- 3.3 The four listed categories of assessable dealing are discussed in turn under the main sub-headings in this Chapter. Some other assessable dealings are discussed at paragraphs 3.42 and following.

*Retail sales by manufacturers***General principles**

- 3.4 Where goods are sold by a manufacturer by retail, the normal taxable value is the price for which the taxpayer could reasonably have been expected to sell the goods by wholesale in Australia under an arm's length transaction. This is easy to determine where a manufacturer sells the same type of goods by wholesale in significant quantities in comparable circumstances as the retailed goods. These manufacturers will have determined a price for their wholesale sales that recovers their costs and makes a fair profit and can simply use that price as the taxable value for retail sales.
- 3.5 Determining a reasonable wholesale price becomes more difficult when the manufacturer only sells the particular goods by retail, or makes wholesale sales occasionally or on different terms to the retail sales. Where an actual wholesale price cannot be used, a notional one will need to be determined, or the taxpayer can use a Safe Harbour.
- 3.6 Although a sale might be made at a lower price occasionally or for a limited period, as a general rule, a manufacturer would reasonably have been expected to sell the goods by wholesale at a price reflecting the sum of:
- the manufacturing costs of the goods;
 - the research and development costs (if any) associated with the particular goods - these costs should be calculated by dividing the aggregate thereof by the number of units of the goods expected to be sold;
 - the expenses that would have been associated with selling the goods, if they were sold by wholesale (referred to as the notional wholesale expenses); and
 - a fair wholesale profit.
- 3.7 A price that does not cover the above costs and expenses and provide a fair wholesale profit is not likely to be a reasonable basis for a wholesale price. If a taxpayer sold regularly at a price lower than one calculated in this way, their business could not remain viable. Therefore, when a taxpayer must determine a notional wholesale price, the Taxation Office generally expects that it will be made up on this basis, or be equivalent to it.
- 3.8 *Manufacturing costs* means the sum of:
- the cost of materials used to manufacture the particular goods;

- the cost of labour used directly in the manufacturing operations; and
- production overheads.¹³

3.9 Production overheads are sometimes described as factory overheads, indirect manufacturing costs, manufacturing overheads or manufacturing expenses. There are two categories of production overheads:

- variable production overheads - production costs which vary with the volume of production, for example, material wasted, factory light and power, stores and most indirect labour; and
- fixed production overheads - production costs that remain relatively constant from period to period irrespective of any variation in the volume of production, for example, factory rent, insurance and depreciation.

3.10 *Notional wholesale expenses* would include an amount for warehousing and storing the goods, distribution costs, marketing and selling expenses relating to wholesale distribution, administrative costs, wholesale financing costs, cleaning costs and other costs that would ordinarily be borne by a wholesaler in the circumstances of the particular assessable dealing in question. A *fair wholesale profit* is one that would at least provide a reasonable return on the manufacturer's investment in producing and distributing the goods by wholesale. The reasonableness of the return is judged having regard to rates of return available on other comparable investments and the balance of profit between wholesale and retail.

Manufacturers who sell goods by retail and sell similar goods by wholesale

3.11 Where manufacturers make retail sales of goods similar to those they sell in significant quantities by wholesale in comparable circumstances, the actual wholesale price of those goods sold in Australia will usually be the best indicator of the taxable value of the goods sold by retail. Actual prices will not be the best indicator of the taxable value of other goods sold by retail where:

- the actual wholesale price is not an arm's length price (see Chapter 5);
- the goods sold by retail are of a different type or class to those sold by wholesale;
- the actual wholesale price relates to an insignificant quantity of sales compared to the retail sales; or

¹³. Note that these definitions differ slightly from the definitions provided in IT 2350 that were formally endorsed by SST 2. The definitions above replace the IT 2350 meanings with effect from 1 October 1996.

- the sale is made in circumstances, or on conditions, that do not apply to the retail sale.

- 3.12 There are numerous cases where the actual wholesale price of goods sold in small quantities or infrequently would be either too high or too low to be used as a useful guide to the notional wholesale price of retailed goods. An example might be where a manufacturer who normally sells by retail makes occasional sales of goods by wholesale to people who directly compete in the retail market. In these cases, although the seller may not be able to refuse to sell, a price may be set which is only marginally below retail as a disincentive to the buyer. Similarly, a manufacturer trying to break into new markets might, for a brief period or for a small proportion of its sales, sell at a price below or close to cost.
- 3.13 Furthermore, a manufacturer's actual wholesale or trade prices will not necessarily be the best guide to the taxable value of retail sales where those prices relate to sales made at an earlier point in the distribution chain. A manufacturer's prices to wholesalers or original equipment manufacturers will usually be lower than prices to retailers, due to the special nature of the on-going relationships or expectations of higher volumes. The wholesale price to retailers will generally be a better guide to the taxable value for retail sales.
- 3.14 The concepts discussed in paragraphs 3.11 to 3.13 are reflected in the following Safe Harbour:

Safe Harbour 2

Manufacturers who sell goods by retail may use the actual wholesale price of similar goods sold in significant quantities to arm's length retailers in Australia in comparable circumstances as the notional wholesale selling price of goods sold by retail.

- 3.15 While the Taxation Office does not recognise prices to wholesalers as being sufficiently comparable to use as a basis for a general rule governing the taxable value of retail sales, they are taken into account in a Safe Harbour that applies when manufacturers have a range of wholesale prices for sales of similar goods.

Safe Harbour 3

Manufacturers who sell goods by retail and sell significant quantities of similar goods to retailers, or to wholesalers and retailers, at a range of arm's length prices may use the weighted average of all of their wholesale prices (including sales of goods made under quote or exported) as the notional wholesale selling price of their goods sold by retail.

- 3.16 As an example of the calculation of the weighted average, assume a manufacturer sells goods by retail and also sells similar goods by wholesale at different prices to wholesalers and retailers. If seventy percent of the wholesale sales are made at \$50 each to wholesalers and the remaining thirty percent made at \$60 each to other retailers, the weighted average price of all wholesale sales would be:

$$(70/100 \times 50) + (30/100 \times 60) = 35 + 18 = 53.$$

In this example, the notional wholesale selling price of the goods would be \$53 each.

Manufacturers who sell goods by retail and do not sell similar goods by wholesale

- 3.17 Manufacturers who do not sell similar goods by wholesale and retail (or only make wholesale sales in situations where that price is not representative as explained in paragraphs 3.11 to 3.13) may have a more difficult task calculating the notional wholesale selling price of their retail sales. First, they will have no actual wholesale price to use as a guide and, secondly, although they may be able to calculate manufacturing cost easily, they may have no basis on which to determine the wholesale expense or profit figures to use in the formula in paragraph 3.6.
- 3.18 Where there is no particular basis for apportioning expenses and profit between wholesale and retail, the Taxation Office has accepted that a notional wholesale price can be found by finding a point between the manufacturing cost and the retail selling price (tax exclusive) mathematically. The value at which the ratio of manufacturing cost to the wholesale price equals the ratio of the wholesale price to the retail price is known as the geometric mean of the manufacturing cost and the retail selling price (tax exclusive) of the goods. A simplified formula for finding this figure is set out in the Safe Harbour below.

Safe Harbour 4

Manufacturers who sell goods by retail but do not sell significant quantities of similar goods by wholesale in Australia in comparable circumstances may calculate the notional wholesale selling price of the goods sold by retail as the sum of:

- their manufacturing costs, plus
- one third of the difference between that amount and the retail selling price (excluding tax) of the goods.

- 3.19 As an example of this Safe Harbour calculation, if the manufacturing cost of a unit is \$50 and the retail price is \$80 before tax, then the taxable value would be:

$$50 + 1/3 \text{ of } (80 - 50) = 50 + 10 = 60.$$

Therefore, the notional wholesale selling price of the goods would be \$60. Once a value has been calculated in this way, it can be converted to a percentage off retail selling price, in this case, retail selling price (without tax) less 25%.

- 3.20 Some manufacturers may only have a retail price that includes sales tax and may therefore have difficulty in using the previous calculation. If a manufacturer knows only the tax inclusive retail selling price and the manufacturing cost of the goods, the taxable value can be calculated as:

$$\frac{(2C+RSP)}{(3 + R)}$$

where:

- C = the manufacturing cost of the goods
 RSP = tax inclusive retail selling price
 R = the rate of tax of the particular goods divided by 100.

- 3.21 In the example in paragraph 3.19, the tax inclusive retail selling price of goods taxed at 22% would be \$93.20 (\$80 plus \$13.20 being 22% of notional wholesale price of \$60). Applying the formula produces the same taxable value of \$60 as follows:

$$\begin{aligned}
 & (2 \times 50 + 93.20) \text{ divided by } (3 + 0.22) \\
 & = 193.20 \text{ divided by } 3.22 \\
 & = \$60.
 \end{aligned}$$

- 3.22 In some industries it is common for manufacturers to sell goods almost exclusively by retail and it may be difficult for them to determine the manufacturing costs of their goods to use in any of the previous methods. In these circumstances, representatives of the industry may develop a proposal for the Taxation Office to consider a special taxable value for their industry. Industry values will be publicised through a Sales Tax Determination. Individual manufacturers can ask for a private ruling. In either case, values will usually be calculated by reference to a percentage to be deducted from the retail selling price.

Sales of seconds

- 3.23 Manufacturers sometimes sell goods that do not meet normal marketing standards, often referred to as 'seconds' or 'rejects'. These goods may be sold at a price below the normal wholesale selling price and, in some instances, the selling price may be less than cost. Another class of goods that may be sold at reduced prices is older stock that is either close to, or past, its recommended 'use by date'. Sales of seconds, rejects and older stock are further examples of the situation referred to in paragraph 3.12, where a manufacturer might sell goods at a lower price than one worked out in accordance with the principles in paragraph 3.6.
- 3.24 For the types of sales referred to in paragraph 3.23, a special Safe Harbour applies:

Safe Harbour 5

For sales of seconds, rejects or older stock, manufacturers may calculate the notional wholesale selling price by treating the actual selling price as the tax inclusive wholesale price.

Retail sales by non-manufacturers

General principles

- 3.25 Where goods have been acquired under quote by non-manufacturers (such as wholesalers) and are sold by retail, the normal taxable value is the notional wholesale selling price or the price (excluding tax) for which they could reasonably have been expected to sell the goods under an arm's length transaction. Wholesalers will usually sell significant quantities of the same goods by wholesale in Australia

and the actual wholesale price of sales on comparable terms and conditions will usually be the best indicator of the notional wholesale selling price for retail goods.

3.26 Where the actual wholesale price is not applicable, for the reasons given in paragraph 3.11, it would be reasonable to expect non-manufacturers to sell at a price that recovers costs of acquisition, wholesale expenses and makes a fair wholesale profit. The notional wholesale selling price should therefore reflect the sum of:

- the into store cost of the goods;
- the expenses that would have been associated with selling the goods if they were sold by wholesale (the notional wholesale expenses); and
- a fair wholesale profit.

3.27 The *into store cost* means the purchase price of the goods plus duties, inwards transport costs to the non-manufacturer's premises (or as it directs) and any other directly attributable costs of acquisition. In determining the purchase price of goods, only the rebates identified at paragraphs 2.18 and 2.19 can be deducted from the invoice price. Other expressions in paragraph 3.26 have the similar meanings to those given for manufacturers in paragraph 3.10.

Non-manufacturers who sell goods by retail and sell similar goods by wholesale

3.28 Where wholesalers and other non-manufacturers sell similar goods by wholesale and retail and the wholesale price is a fair indication of the taxable value for the retail sale (refer to paragraph 3.11), the following Safe Harbour may be used:

Safe Harbour 6

Non-manufacturers who sell goods by retail may use the actual wholesale price of similar goods sold in significant quantities to arm's length retailers in Australia in comparable circumstances as the notional wholesale selling price of goods sold by retail.

3.29 While the Taxation Office does not recognise prices to wholesalers as being sufficiently comparable to use as a basis for a general rule governing the taxable value of retail sales, they are taken into account in a Safe Harbour that applies when non-manufacturers have a range of wholesale prices for sales of similar goods:

Safe Harbour 7

Non-manufacturers (other than Direct Sellers and Indirect Marketers) who sell goods by retail and sell significant quantities of similar goods by wholesale to retailers, or to wholesalers and retailers, at a range of arm's length prices, may use the weighted average of all their wholesale prices (including sales of goods made under quote or exported) as the notional wholesale selling price of their goods sold by retail.

Non-manufacturers who sell goods by retail but don't sell similar goods by wholesale

- 3.30 Wholesalers and other non-manufacturers who sell particular goods by retail and do not sell similar goods by wholesale may determine the notional wholesale selling price of goods they sell by retail using the principles in paragraph 3.26, however, for ease of calculation, the following Safe Harbour is provided:

Safe Harbour 8

Non-manufacturers (other than Direct Sellers and Indirect Marketers) who sell goods by retail but do not sell significant quantities of similar goods by wholesale in Australia in comparable circumstances may calculate the notional wholesale selling price of the goods sold by retail as the lesser of:

- their into store cost of the goods plus one-third of the difference between that amount and the retail selling price (excluding tax) of the goods; or
- their into store cost of the goods, plus 10%, provided that, in the case of goods imported by the taxpayer, this is adjusted to a figure not less than 120% of (customs value + customs duty).

- 3.31 Under this Safe Harbour, if the into store cost of goods not imported by the taxpayer is \$100 and the retail selling price (excluding tax) is \$130 or more, the notional wholesale selling price of the goods will be \$110. If, however, the retail selling price is, say \$121, the notional wholesale selling price will be \$107 (that is, \$100 plus 1/3 of (\$121 - \$100)).

Sales of seconds

- 3.32 Non-manufacturers also sell seconds or rejects at a price below the normal wholesale selling price in the same way as described for manufacturers in paragraph 3.23. The following Safe Harbour is provided in these cases:

Safe Harbour 9

For sales of seconds, rejects or older stock, non-manufacturers may calculate the notional wholesale selling price by treating the actual selling price as the tax inclusive wholesale price.

Indirect Marketing Sales

- 3.33 The notional wholesale selling price is also the taxable value for indirect marketing sales as defined by section 20 of the *Sales Tax Assessment Act 1992*. Under that section, a sale is an indirect marketing sale if it is a retail sale by a person who is not the manufacturer of the goods and the sale is made under an arrangement that provides for the sale of the goods to be made either:
- by a person (other than an employee) who is acting for the marketer; or
 - from premises used mainly for making retail sales by someone else if the premises are held out to be their premises or premises used by them.
- 3.34 There are two distinct types of resellers that are covered by the indirect marketing provisions, namely Direct Sellers and Indirect Marketers. Descriptions of the trading activities of these persons and the relevant Safe Harbours provided to each are described in the following paragraphs.

Direct Sellers

- 3.35 Direct Sellers operate on a person to person basis away from a fixed retail location through agents or contractors and are thus included through the first element of the definition. Door to door sales, party plan or home demonstrations and multi-level marketing arrangements are direct selling arrangements affected by this provision.
- 3.36 Previous public rulings on direct selling arrangements have offered taxable (sale) values of landed cost plus 20% (ST 2140, date of effect 5 June 1985) and landed cost plus 35% (ST 2424, date of effect of 1 June 1988). These values are not often used in practice as many Direct Sellers have been able to establish taxable values lower than that set out in ST 2424. From the date of issue of this Ruling, Direct

Sellers may adopt Safe Harbour 6, or if that does not apply, they may use the following:

Safe Harbour 10

Direct Sellers who do not sell significant quantities of similar goods by wholesale in Australia in comparable circumstances may calculate the notional wholesale selling price of goods purchased or imported at arm's length as the lesser of:

- their into store cost of the goods, plus one-third of the difference between that amount and the retail selling price (excluding tax) of the goods; or
- their into store cost of the goods plus 15%.

Goods purchased from non-arm's length suppliers are dealt with in Chapter 5 (see paragraphs 5.14 and 5.15).

- 3.37 Note that the qualification that appears in Safe Harbour 8 relating to goods imported by the taxpayer does not apply to this Safe Harbour. As a result of negotiations between representatives of Direct Sellers and the Taxation Office to further reduce compliance costs for the industry, the 15% uplift can apply, even if the resultant value might be less than 120% of (customs value + customs duty) of the goods imported by the taxpayer.

Indirect Marketers

- 3.38 The other types of sellers affected by these provisions (referred to as Indirect Marketers), usually operate from premises held out to be another person's retail premises in one of the following ways:

- by entering into an arrangement with a retail outlet where goods are sold by the retail outlet acting as agent on behalf of the Indirect Marketer (the retail outlet provides staff and facilities and the stock will usually be held on consignment);
- under an arrangement whereby the retail outlet permits the Indirect Marketer to conduct business from floor space within its premises, charging the Indirect Marketer a fee equivalent to rent for the floor space. Sometimes the retail outlet will provide the majority of the staff

and facilities necessary to sell the goods and, on other occasions, the Indirect Marketer will utilise its own staff in the conduct of its business. (Where the Indirect Marketer provides its own staff, this arrangement is referred to in this ruling as a *concession arrangement*.)

- 3.39 The primary aim of the indirect marketing provisions was to place Indirect Marketers operating through another's premises on a similar basis to wholesalers, where their operations more closely resemble that of wholesalers than retailers. Indirect Marketers who are not Direct Sellers may adopt Safe Harbour 6, or if that does not apply, they may use the following:

Safe Harbour 11

Indirect Marketers who do not sell significant quantities of similar goods to arm's length retailers in Australia in comparable circumstances may calculate the notional wholesale selling price of the goods sold by retail as the lesser of:

- their into store costs, plus one third of the difference between that amount and the retail selling price (excluding tax) of the goods; or
- their into store costs plus 35%.

Safe Harbour 12

Indirect Marketers operating under *concession arrangements* who do not sell significant quantities of similar goods to arm's length retailers in Australia in comparable circumstances may calculate the notional wholesale selling price of the goods sold by retail as the lesser of:

- their into store cost of the goods plus one third of the difference between that amount and the retail selling price (excluding tax) of the goods; or
- their into store cost of the goods plus 15%.

Goods Applied to Own Use (AOU) by the manufacturer

- 3.40 Some manufacturers produce goods and apply them to their own use. The taxable value for this assessable dealing is the notional wholesale selling price of the goods. Where similar goods are also sold by wholesale, the manufacturer may use the price for which those goods are sold as explained in paragraphs 3.11 to 3.16. Where similar goods are sold only by retail, the manufacturer should use the notional wholesale selling price of goods calculated as explained in paragraphs 3.17 to 3.22.
- 3.41 Manufacturers who produce goods for own use (AOU) and do not sell similar goods (for example, printed matter for internal use only), may use the following:

Safe Harbour 13

Manufacturers who produce goods for own use and do not sell similar goods may calculate the notional wholesale selling price of AOUs as the manufacturing cost of the goods plus 10%. 'In house' printers may continue to calculate their taxable value of AOU printing on the sum of the cost of materials, plus direct labour, plus 150% of direct labour, plus 10%.

Other situations

- 3.42 The notional wholesale selling price is also the normal taxable value for a range of assessable dealings with untaxed goods. In any case not dealt with earlier in this Ruling, the taxpayer may use Safe Harbours 6, 7 or 8 as appropriate to determine the taxable value. Some examples of these cases are set out below.

Retail sales by a retailer holding tax-free stocks

- 3.43 Some retailers, such as country store keepers, have been granted approval to purchase certain goods free of sales tax on the basis that those goods will be sold almost exclusively to persons claiming exemption from sales tax. These retailers may sell some of these goods in taxable circumstances. Where this happens, the retailer is liable to account for tax on the notional wholesale selling price of the goods. If the retailer sells significant quantities of similar goods by wholesale, the taxable value for retail sales can be calculated according to Safe Harbour 6 or 7 as appropriate. Retailers who do not make wholesale sales of similar goods may calculate the notional wholesale selling price of the goods using Safe Harbour 8.

Duty free stores

- 3.44 Duty free stores also hold tax-free stocks. While most sales made by them are made in exempt circumstances, they will be liable to pay tax on any taxable sales and goods that have been sold in exempt circumstances to Australians travelling overseas where there is no evidence to show that the goods were actually exported from Australia. These goods are commonly termed 'misses'. Where duty free stores sell similar goods by wholesale, they may use Safe Harbour 6 or 7. Where they do not sell similar goods by wholesale, they may use Safe Harbour 8.

Chapter 4: Other taxable values

Notional wholesale purchase price

- 4.1 The notional wholesale purchase price is the taxable value for:
- royalty inclusive sales (AD2c and AD12c); and
 - royalty inclusive AOU's (AD3d and AD13d);
- and forms a component of the calculation of the taxable value for:
- a delivery of customer's materials goods (AD4a).
- 4.2 The notional wholesale purchase price is defined in Table 1 as the price (excluding sales tax) for which the taxpayer could reasonably have been expected to buy the goods by wholesale under an arm's length transaction.
- 4.3 The determination of the notional wholesale purchase price for transactions involving royalties will be the subject of a separate Ruling.
- 4.4 In the case of goods manufactured from materials supplied by the customer, the notional wholesale purchase price (of always exempt materials) will usually be the price advised to the manufacturer by the customer. If the customer has purchased the material from a retailer, then an assessment will need to be made of the wholesale purchase price. The following Safe Harbour may be used:

Safe Harbour 14

Under AD4a, for the purposes of determining the notional wholesale purchase price, where the actual purchase price of the materials supplied by the consumer is not known, or the manufacturer believes the stated price to be unreasonable, manufacturers may use the price for which they can purchase comparable goods at arm's length.

Actual purchase price

4.5 The actual purchase price is the normal taxable value set out in Table 1 for the following assessable dealings:

- an AOU by a person who purchased goods under quote (AD3c and AD13c); and
- removal from a customs clearance area of airport shop goods purchased by a relevant traveller from an inwards duty free shop (AD4b and AD14b).

4.6 Where a retailer or duty free store draws goods from tax-free stock and applies them to own use in taxable circumstances, for example, as give-aways or promotional material, tax is payable on the purchase price of the goods (provided the retailer did not locally enter the goods: see paragraphs 4.7 to 4.11.). This value also applies to an AOU by a person who purchases goods under quote and applies the goods to own use in taxable circumstances, for example, where the quote was made incorrectly. The purchase price for those goods is to be determined in the same way as the selling price of goods as dealt with in Chapter 2.

Local entry (or AD10 value)

4.7 The entry for home consumption of imported goods, by an unregistered person or by a registered person who does not quote their sales tax registration number on the customs entry (for example, where goods are imported for sale by retail or for application to own use by the importer) constitutes an assessable dealing with the goods and is referred to as a local entry. In cases where no exemption applies to the goods, sales tax is payable to the Australian Customs Service at the time of the local entry on a statutory taxable value (often referred to as the AD10 value).

4.8 This special statutory taxable value applies to:

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- the local entry of goods by an importer (AD10); and
- an AOU by a person who locally entered the goods under quote (AD13c).

4.9 The taxable value for these assessable dealings is described in Table 1 as:

- 120% of (customs value plus customs duty).

4.10 The customs value is determined by the Australian Customs Service at the time the goods are locally entered. In cases where it becomes necessary to determine the customs value and customs duty to comply with the terms of this Ruling, the customs values shown on the formal customs entry and customs duty paid or payable on those values should be used.

4.11 Importers who need to determine the valuation or classification of goods for customs purposes and who are unsure of the procedure to be followed, should contact the Tariff and Valuation Section of their local Customs Office for advice.

Chapter 5: Non-arm's length transactions

General principles

5.1 As mentioned in paragraph 1.14, an automatic rule applies if the taxpayer (or an associate) is a party to a non-arm's length transaction and this affects the price of goods. The non-arm's length rule means that, in a non-arm's length transaction, the taxable value of the goods must reflect a price for which the goods could reasonably be expected to have been sold under an arm's length transaction. The rule is relevant where the taxpayer buys or sells goods by wholesale and tax is payable on that transaction value, but can also apply where non-arm's length transactions are sought to be used as a basis for establishing the notional wholesale purchase price or the notional wholesale selling price of goods.

5.2 A transaction is not at arm's length where the parties are not dealing with each other as arm's length parties normally would, with the result that the outcome of their dealing is not a matter of real bargaining.¹⁴ In practice, the question of whether the

¹⁴ See *Australian Trade Commission v. W A Meat Exports Pty Ltd* (1987) 75 ALR 287; *Barnsdall v. FC of T* 88 ATC 4565; 19 ATR 1352; *The Trustee for the Estate of the late A W Furse No 5 Will Trust v. FC of T* 91 ATC 4007; 21 ATR 1123; *Granby Pty Ltd v. FC of T* 95 ATC 4240; (1995) 30 ATR 400; *Copperart Pty Ltd v. FC of T* 93 ATC 4779; (1993) 26 ATR 327.

arm's length rule comes into play most often arises where parties are not dealing with each other at arm's length, meaning that one party has the ability to exert personal influence or control over the other.

- 5.3 For reasons canvassed in Chapter 3, the best evidence of the price for which the goods could reasonably be expected to have been sold under an arm's length transaction will usually be the price for which significant quantities of similar goods are sold by that person in comparable circumstances under an arm's length transaction. In some cases, associates and other companies in the same group may sell similar goods to arm's length purchasers and the prices charged by them in comparable circumstances might indicate an arm's length price.
- 5.4 Determining an arm's length price may be difficult when the taxpayer only sells the particular goods in non-arm's length circumstances, or the arm's length transactions are irregular, infrequent, insignificant or on different terms or in different circumstances to the non-arm's length sales. In these circumstances a notional arm's length value may need to be calculated.
- 5.5 Establishing a notional arm's length value is the same, in principle, as establishing the notional wholesale selling price of goods, where the test is the amount that goods could reasonably have been expected to be sold by wholesale under an arm's length transaction. It can therefore be approached on the basis set out in paragraph 3.6 (for manufacturers) and 3.26 (for non-manufacturers).
- 5.6 The following paragraphs provide some Safe Harbours for common non-arm's length arrangements. Safe Harbours set out in previous chapters cannot automatically be applied to non-arm's length transactions. Where Safe Harbours or principles discussed in other Chapters do apply to non-arm's length transactions, they will be specifically referred to in this Chapter. Where a Safe Harbour does not apply to a taxpayer's particular circumstances a private ruling may be sought from the Taxation Office.

Manufacturer and retailer not at arm's length

- 5.7 The normal taxable value for manufacturers selling by wholesale is the price for which the goods were sold. Where the manufacturer and retailer are not dealing with each other at arm's length, the actual selling price could be artificially reduced, thereby reducing the tax component in the final sale price of the goods, producing an unfair result for other retailers. In these circumstances the taxable value will effectively be the price for which the goods could reasonably have been expected to be sold under an arm's length transaction.

- 5.8 Where a manufacturer makes significant wholesale sales of similar goods at arm's length on the same terms and conditions as the non-arm's length sales, then the following Safe Harbour will apply:

Safe Harbour 15

Manufacturers who sell goods to non-arm's length retailers may use the actual wholesale price of similar goods sold in significant quantities to arm's length retailers in Australia in comparable circumstances as the taxable value of goods sold under the non-arm's length transaction.

- 5.9 If manufacturers have a range of prices for the sale of similar goods by wholesale to retailers, or wholesalers and retailers, they may adopt the weighted average of the arm's length prices as the taxable value of sales to non-arm's length retailers.

Safe Harbour 16

Manufacturers who sell goods to non-arm's length retailers and sell significant quantities of similar goods to retailers, or wholesalers and retailers, at a range of arm's length prices may use the weighted average of all of those wholesale prices (including sales of goods under quote or exported) as the taxable value of their goods sold under the non-arm's length transaction.

- 5.10 Where manufacturers sell goods to non-arm's length retailers (who in turn sell the goods at arm's length), but do not sell significant quantities of similar goods by wholesale in comparable circumstances at arm's length, they may use the following Safe Harbour:

Safe Harbour 17

Manufacturers who sell goods to non-arm's length retailers but do not sell significant quantities of similar goods by wholesale in Australia at arm's length in comparable circumstances may calculate the taxable value of the goods sold to the non-arm's length retailers as the sum of:

- their manufacturing costs; plus
- one third of the difference between that amount and the arm's length retail selling price (excluding tax) of the goods sold by the retailer.

Wholesaler and retailer not at arm's length

- 5.11 Some retailers interpose a wholesale entity between themselves and their normal suppliers in order to defer the time at which tax is payable and for other reasons. The normal supplier (who is at arm's length) sells to the interposed wholesaler under quote and the interposed wholesaler then sells the goods to the non-arm's length retailer. In some cases that wholesaler may make arm's length wholesale sales. Where the wholesaler sells significant quantities of similar goods by wholesale at arm's length in Australia in comparable circumstances, that price will usually be the best guide to the arm's length wholesale price.
- 5.12 For the purposes of the sales tax law, non-arm's length or interposed wholesalers are no different from any other. They are required to pay tax on an amount for which the goods could reasonably be expected to have been sold under an arm's length transaction. The fact that the goods were purchased at an arm's length price is not material to the calculation of this taxable value.
- 5.13 The Safe Harbours below may be applied to non-arm's length dealings between wholesalers and retailers according to the circumstances of the transaction:

Safe Harbour 18

Wholesalers who sell goods to non-arm's length retailers may use the wholesale price of goods sold in significant quantities to arm's length retailers in Australia in comparable circumstances as the taxable value of goods sold under the non-arm's length transaction.

Safe Harbour 19

Wholesalers who sell goods to non-arm's length retailers and sell significant quantities of similar goods to retailers, or to wholesalers and retailers at a range of arm's length prices may use the weighted average of all of those prices (including sales of goods made under quote or exported) as the taxable value of goods sold under the non-arm's length transaction.

Safe Harbour 20

Wholesalers who sell goods to non-arm's length retailers, but do not sell significant quantities of similar goods by wholesale at arm's length in Australia in comparable circumstances, may calculate the taxable value of those non-arm's length sales as the lesser of:

- the arm's length into store cost of the goods, plus one-third of the difference between that amount and the retail selling price (excluding tax) of the goods sold by the retailer; or
- the arm's length into store cost of the goods, plus 10%, provided that, in the case of goods imported by the taxpayer, this is adjusted to a figure not less than 120% of (customs value + customs duty).

Indirect Marketing Sales

- 5.14 Many Direct Sellers and Indirect Marketers routinely purchase goods from non-arm's length parties. Safe Harbour 10 can be applied by Direct Sellers provided the reference to the into store cost of the goods is read as the into store cost of the goods plus such amount as would be necessary to increase the purchase price of the goods to the price for which the goods would have been purchased at arm's length.
- 5.15 Safe Harbours 6, 11 or 12 (as appropriate) can be applied by Indirect Marketers, provided that, in Safe Harbours 11 and 12, into store cost is read as the into store cost of the goods plus such amount as would be necessary to increase the purchase price of the goods to the price for which the goods would have been purchased at arm's length.

Sales to staff

- 5.16 Staff sales may be made by manufacturers, wholesalers and retailers holding tax free stock at a variety of prices, varying from below the manufacturing or into store cost of the goods to near the retail price of the goods. They are non-arm's length sales by retail, so the taxable value of the goods will be the notional wholesale selling price, defined as the amount for which the goods could reasonably have been expected to be sold by wholesale under an arm's length transaction.
- 5.17 From 5 June 1996, to simplify the calculation of tax on staff sales, the following Safe Harbour may be used for sales of normal stock to staff:

Safe Harbour 21

Where manufacturers, wholesalers or retailers holding tax free stock sell normal stock to staff at prices lower than the usual wholesale selling price for arm's length transactions, the taxable value of those goods may be calculated as if the actual selling price was the tax inclusive wholesale price, provided that the result is not less than the manufacturing cost or into store cost respectively.

- 5.18 Taxpayers may also sell to staff goods that do not meet normal marketing standards, often referred to as 'seconds' or 'rejects' or older stock that is either close to, or past, its recommended 'use by date'. Sales to staff of these goods are treated in the same way as arm's length sales of these goods under Safe Harbours 5 and 9.

Chapter 6: Additions to normal taxable values

- 6.1 The sales tax law provides for the normal taxable values in Table 1 to be increased in the circumstances set out below, unless the amount to be added has otherwise been included in the normal taxable value.¹⁵

Containers

- 6.2 The general approach is to tax containers at the same rate (if any) as their contents, by ensuring that the value of the container is included in the value of the contents. Where the vendor sells the goods and the containers for one inclusive price, the value of the container will automatically be included in the taxable value of any assessable dealing with the contents. If a separate value is allocated to the container, the law requires that the taxable value of the contents be increased by the container component (whether or not tax has previously been paid in respect of the container).
- 6.3 The amount to be added to the taxable value of the contents in these cases is:
- if the assessable dealing is a wholesale sale, so much of the value of the container that is recouped in connection with the sale of the contents; or
 - in any other case, so much of the value of the container as could reasonably be expected to have been recouped in connection with a sale of the contents at the time of the assessable dealing with the contents.
- 6.4 By way of example, suppose a manufacturer quotes a sales tax registration number for boxes to package soap for sale by wholesale. If the packaged soap is sold for a single price of \$10, it is not necessary to add a separate amount for the container component. However, if the manufacturer sells the soap for \$8 and charges \$2 for the container, then the \$2 is added to the taxable value of the soap and tax is payable on the total of \$10.
- 6.5 Where containers are purchased tax-paid (or tax was paid at the time of an AOU) and the subsequent inclusion of the value of the container in the taxable value of the contents results in double taxation, a credit is available for the amount of any tax the taxpayer has previously borne on the container.

¹⁵. Section 38 of the *Sales Tax Assessment Act 1992* provides that additions need not be made if the amounts are otherwise included.

Associated royalty component

6.6 If not otherwise included in the normal taxable value, the value of any *royalty*¹⁶ must be added to the taxable value of goods where the royalty is paid or payable in connection with:

- the manufacture of the goods;
- the importation or local entry of the goods;
- a sale of the goods;
- the granting of a lease of the goods; or
- a delivery of customer's materials goods.

A separate Sales Tax Ruling on royalties will be issued.

6.7 A royalty may be paid as a lump sum or as a fixed or variable amount per article. A lump sum is generally apportioned over the number of goods expected to be produced and sold under the royalty agreement. In calculating the taxable value, it is only the part of the lump sum royalty that is apportioned to each article that will be included. Tax is payable on the full value of the royalty apportioned to each article at the rate of tax applicable to the article. For example, if the royalty apportioned to goods taxable at the rate of 22% is \$10 per good, then tax of \$2.20 is payable on the royalty component, being 22% of \$10. This is additional to the tax that has been paid separately on the goods themselves.

6.8 It is possible that a liability to pay tax on a particular royalty payment could arise under both the former law and the new sales tax law. To overcome the possibility of double taxation, a transitional provision¹⁷ provides that if tax was or is payable under *Sales Tax Assessment Act (No 10) 1985*, then no liability to tax on the royalty payment will arise under the new law.

Goods held in bond

6.9 When goods are entered for home consumption, the normal taxable value is based on a value inclusive of customs duty or excise. If an assessable dealing occurs while the goods are in the control of the Australian Customs Service, a provision of the

¹⁶. *Royalty* is defined in section 36 of the *Sales Tax Assessment Act 1992*.

¹⁷. The provision is subsection 5(2) of the *Sales Tax Amendment (Transitional) Act 1992*.

law¹⁸ requires that the taxable value of the goods be increased by the amount of customs duty or excise duty to which the goods would have been subject if they had been entered for home consumption at the time of the taxable dealing.

Chapter 7: Exempt parts of taxable values

- 7.1 For certain goods, amounts known as exempt parts are excluded from the normal taxable value before tax is calculated on them. The goods to which this treatment applies and the amount of the reduced taxable value when they are the subject of an assessable dealing are set out in the following paragraphs.

Goods incorporating tax-advantaged computer programs

- 7.2 A tax-advantaged computer program is:

- any program that is not embodied in a microchip; or
- a program marketed exclusively for entertainment or educational use (or a combination of both), that is embodied in a microchip and enclosed by a cartridge marketed as being exclusively for use with a personal computer or home electronic device.¹⁹

- 7.3 The exempt part is so much of the taxable value as is attributable to the tax advantaged computer program (TACP) embodied in the goods (that is, contained on the disc, cartridge or other carrying medium).²⁰ In practice, this means that tax will only be payable on the wholesale value of the carrying medium where all that is recorded on the carrying medium is a TACP.

- 7.4 The Taxation Office has published two Sales Tax Determinations (STD 95/2 and STD 96/5) that describe storage devices that usually contain TACP, explain how to value TACP and provide some Safe Harbours where valuation is difficult.

¹⁸. Namely, section 37 of the *Sales Tax Assessment Act 1992*.

¹⁹. See the definition in section 14 of the *Sales Tax Assessment Act 1992*.

²⁰. Refer to section 45 of the *Sales Tax Assessment Act 1992*.

Goods incorporating videotex equipment

- 7.5 The taxable value of a television set that incorporates *videotex* equipment for a person who is certified as being profoundly deaf is reduced by the value of the videotex equipment.²¹

Goods incorporating solar panels

- 7.6 Where solar panels are incorporated into other goods then the taxable value of those goods is reduced by the value of the solar panels.²²

Goods incorporating milk tanks

- 7.7 Tanks and pumping equipment for bulk milk tankers that are used to collect milk from farms are exempt from tax.²³ Where such tanks and pumping equipment are attached to a road vehicle and the complete vehicle is taxable, the taxable value of the vehicle is reduced by the value of the tank.²⁴

Luxury motor vehicles for certain disabled persons

- 7.8 Where a person with disabilities would have been entitled to an exemption on a motor vehicle²⁵ if it had not been classified as a luxury motor vehicle,²⁶ then part of the taxable value is exempt. The taxable value of the motor vehicle is reduced by 67.1% of the motor vehicle depreciation limit for the financial year of the dealing.²⁷

Goods partly exempt from customs duty

- 7.9 In the case of a customs dealing, if a proportion of the value of the goods is not liable to customs duty, then an equivalent proportion of the taxable value is an exempt part. Therefore, as eligible Australian travellers may bring in \$400 worth of

²¹. The term *videotex* describes systems or devices referred to in exemption item 95 of Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992*. The exempt part of the taxable value of videotex equipment is dealt with in section 46 of the *Sales Tax Assessment Act 1992*.

²². See section 47 of the *Sales Tax Assessment Act 1992*. A 'solar panel' means goods covered by sub item 1 of exemption item 171 of Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992*.

²³. Under item 5 of the *Sales Tax (Exemptions and Classifications) Act 1992*.

²⁴. See section 48 of the *Sales Tax Assessment Act 1992*.

²⁵. Under either exemption items 96, 97 or 144A of Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992*.

²⁶. For the purposes of item 1 of Schedule 6 to the *Sales Tax (Exemptions and Classifications) Act 1992*.

²⁷. See section 49 of the *Sales Tax Assessment Act 1992*.

new taxable (personal) goods tax free, the taxable value for the total of new taxable goods is reduced by \$400, whether purchased overseas or tax free in Australia prior to departure.²⁸ In other words, at the time of entry there is no tax on the first \$400 of the total value of all the goods.

Goods leased under eligible short-term leases

- 7.10 The taxable value of goods leased under eligible short-term leases is reduced by the percentage²⁹ agreed between the Commissioner and a person who grants leases of goods in the course of a business. SST Ruling No 4 explains the rules for determining the exempt percentage in relation to these goods.

Chapter 8: Substitute and special taxable values

Substitute taxable values

- 8.1 In a number of special situations, the sales tax law sets out a particular taxable value to be substituted for the taxable value calculated according to the normal rules explained in the previous Chapters. Some special taxable values that need little explanation are set out below and others are dealt with under separate headings.

²⁸. This is the effect of section 50 of the *Sales Tax Assessment Act 1992* and item 15 in Part 1 of Schedule 4 to the Customs Tariff.

²⁹. See section 50A of the *Sales Tax Assessment Act 1992*.

Assessable dealing	Substitute taxable value
A sale or lease of prefabricated buildings or building sections	the value of all the taxable goods incorporated into the building ³⁰
A sale of newspaper and magazine inserts	the amount that would have been the taxable value if the sale had been an AOU ³¹
A retail sale or delivery of photographs exposed in the camera by the seller	40% of the amount payable (excluding sales tax) by the customer ³²
Any dealing with goods imported after being exported for alteration	customs value of repairs and other alterations plus customs duty on importation if applicable ³³

Luxury vehicles

- 8.2 Motor vehicles with a wholesale value above \$35,504 are subject to sales tax at the rate of 45% on the portion of their taxable value that exceeds \$35,504. The law taxes these vehicles in full at the rate of 45% but allows a reduction in the taxable value to produce the effect that for the first \$35,504 of the taxable value the vehicles will have an effective tax rate of 22%.
- 8.3 For vehicles taxable at the split rate of 22%/45%, the taxable value of the vehicle is reduced by an amount equal to 34.296% of the motor vehicle depreciation limit for the financial year in which the taxable dealing happens. **Note:** the wholesale value of \$35,504 applies only for the 1995/96 financial year and increases to \$36,995 for the 1996/97 financial year. The value is subject to an annual CPI adjustment and will be different for 1997/98 and subsequent years. Details of changes in value can be obtained from your local Taxation Office.

Agreements with the Commissioner about taxable value

- 8.4 The Commissioner may enter into an agreement with a taxpayer to calculate the taxable values of particular taxable dealings.³⁴ While no specific limitations to the authority to enter *taxable value agreements* are included in the section, as the terms

³⁰. See section 39 of the *Sales Tax Assessment Act 1992*.

³¹. See section 40 of the *Sales Tax Assessment Act 1992*.

³². See section 41 of the *Sales Tax Assessment Act 1992*.

³³. See section 42 and 42AA of the *Sales Tax Assessment Act 1992*.

³⁴. See Section 43 of the *Sales Tax Assessment Act 1992*.

of any agreement will override the normal taxable value provisions of the sales tax law, agreements are not entered into lightly.

- 8.5 Section 43 is only used when taxable values cannot adequately be determined under the usual statutory provisions. An example would be when, although it is possible to determine a taxpayer's correct liability over a given period, at various times during that period, tax may have been either underpaid or overpaid.
- 8.6 Agreements under section 43 will be in writing and reflect formal agreement on the part of the taxpayer to pay tax on a certain basis and on the part of the Commissioner to accept that amount as completely discharging the taxpayer's obligations. Agreements will usually be entered into for a set period, but may be terminated by either party on reasonable notice. Agreements may include conditions that, if not met, will automatically rescind the agreement. Examples of conditions include the requirement for regular disclosure of certain information, or for the taxable value not to vary more than an agreed amount from a pre-set figure.
- 8.7 Where agreements are entered into with a range or class of taxpayers, the principles upon which the agreement is based will be published by the Taxation Office, making the terms of that agreement available to others in similar circumstances, although the names and any information relating to other taxpayers will not be disclosed.

In situ swimming pools and spas

- 8.8 Swimming pool, spa pool and hot tub shells constructed *in situ* have a special taxable value, being the price for which the pool builder could have purchased a comparable fibreglass pool shell of similar dimensions and shape by wholesale under an arm's length transaction. This special taxable value only applies to in ground swimming pool shells that are constructed on site (such as concrete pools), not to pool shells manufactured elsewhere and transported to the pool site. The taxable values of these pools are calculated according to the rules in the earlier Chapters of this Ruling.
- 8.9 The taxable value of swimming pools, spa pools and hot tub shells constructed *in situ* can be calculated using the following Safe Harbour:³⁵

³⁵ The Taxation Office currently accepts \$100 per square metre as the cost of a comparable fibreglass pool. Alterations to this value will be advised from time to time via a Sales Tax Determination.

Safe Harbour 22

Manufacturers of swimming pool, spa pool and hot tub shells constructed *in situ* may use the following formula to calculate the taxable value:

$$\text{Water surface area of pool (in square metres)} \times \$100$$

As the current rate of tax on pool shells is 22 per cent, this Safe Harbour value will result in tax payable of \$22 per square metre of surface area.

- 8.11 In the case of a very large pool, such as an Olympic sized pool or the lagoon style pools in some resorts, comparable fibreglass pool shells may not exist. In these cases, the taxable value of the pool shell will be the price (excluding sales tax) for which the *in situ* pool shell could have been purchased from another builder. For these types of pools the Taxation Office provides the following Safe Harbour:

Safe Harbour 23

Manufacturers of large *in situ* swimming pools (where there is no comparable fibreglass equivalent) may use the sum of:

- the total cost of materials (including pool liner) and labour used in constructing the pool shell;
- plus 15% of that amount.

Chapter 9: Effect on previous rulings and agreements

General date of effect

- 9.1 By the operation of section 77, later rulings alter earlier rulings to the extent of any conflict between them. Where later rulings bring about significant alterations, it is Taxation Office practice to set a future date from which the ruling becomes effective. In line with this practice, the general date of effect of this Ruling is 1 October 1996, but any person who will pay less tax as a result can apply it

immediately. As it may be difficult for a person to tell how previous rulings are altered by this Ruling, this Chapter sets out some other rules to deal with the impact on various categories of previous taxable value rulings and agreements.

Application to previous rulings and agreements

Published taxable value rulings

9.2 SST No 2 and SST Bulletin No 2 cease to apply on *30 September 1996*.

9.3 At the time of the introduction of the new sales tax law in 1992, the previous taxable value rulings in the ST 2000 series (relating to sale value under the former law) were preserved unless they were inconsistent with the principles set out in SST No 2 or replaced by it. The following rulings are inconsistent with SST No 2 and are formally withdrawn as of 5 June 1996:

ST 2004	Household Drapery and Soft Furnishings
ST 2039	Volume rebates, promotional rebates and deferred credits
ST 2374	Sales between associated entities.

9.4 Now that this Ruling provides a greater number of Safe Harbours than SST No 2, and makes special provision for industry rulings (see paragraph 9.5), certain other rulings in the ST series are no longer necessary. Accordingly, the following rulings cease to apply on 30 September 1996 and are formally withdrawn as of this date:

ST 2140	Indirect marketing arrangements
ST 2131	Motor vehicle parts
ST 2147	Collectors cards in breakfast cereals
ST 2211	Earth moving and construction equipment
ST 2267	Picture framing
ST 2305	Computer software
ST 2424	Indirect marketing arrangements
ST 2458	Whether trade incentive payments reduce sale value.

9.5 The following industry sale and taxable values published in the ST series and in Sales Tax Bulletins remain effective until 1 March 1997, during which time the Taxation Office will consult with the relevant industries to determine whether the value should continue:

ST 2109	Theatre screen and television slides
ST 2268	Sale value of air conditioning duct work.
Bulletin No 7	Photography
Bulletin No 9	The soft furnishing industry.

Unpublished industry rulings

- 9.6 As with published rulings on taxable value, previous unpublished industry rulings were also expressly preserved unless they conflicted with the principles set out in SST No 2. The Taxation Office now desires to publish all industry rulings in order to clarify which of them still apply and to ensure broad access by taxpayers to rulings that apply to others in the same industries.
- 9.7 In consultation with the professional bodies³⁶ focus group that assisted in the preparation of this Ruling, the Taxation Office has developed the following process to give effect to that intention:
- until 1 March 1997, any industry representative body may register a public ruling relating to taxable (or sale) value with the Taxation Office by writing to the address below, providing a copy of the ruling currently in force and requesting, on behalf of taxpayers in their industry, that the ruling be affirmed and published;
 - following the expiration of this period, the Taxation Office will publish a summary of industry taxable values registered. These will remain in force until and unless they are renegotiated or withdrawn (withdrawal of an industry ruling will be on not less than three months' notice);
 - any industry rulings that are not registered by 1 March 1997 will lapse from that date.
- 9.8 Applications for registration of industry taxable values may be made by an industry representative body and can be sent to:

**The Project Manager, Taxable Values
Withholding and Indirect Taxes
PO Box 630
Civic Square ACT 2608
Attention: Kerry Nilon.**

Private taxable value rulings

- 9.9 Previous private rulings that conflict with the principles in this Ruling will be altered from 1 October 1996. As it may sometimes be difficult to determine whether a previous private ruling conflicts with this Ruling, the Taxation Office has agreed

³⁶ The Taxation Institute of Australia, the Institute of Chartered Accountants, the Australian Society of Certified Practising Accountants and the Law Council of Australia have provided joint submissions responding to the drafts of this Ruling and provided a group of senior practitioners to consult with the Taxation Office on various aspects of implementation.

with the professional bodies to describe an exhaustive set of circumstances where this Ruling alters or withdraws previous private rulings.

9.10 A previous private ruling does not conflict with this Ruling merely because the private ruling gives a taxable value that is less than that produced by applying this Ruling. Private rulings will only be altered or withdrawn by this Ruling where they:

- state or apply principles for determining the notional wholesale selling price of goods in a materially different way from those set out in paragraphs 3.6, 3.26 or 5.5 of this Ruling;
- are based on a term in the glossary (see Chapter 10 of this Ruling) and define or apply that term in a materially different way; or
- relate to the sale value of a transaction that would now be covered by assessable dealings AD4a and AD13c.

9.11 From 5 June 1996, private rulings that form the basis of an ongoing liability will apply for 5 years from commencement (or such shorter period requested by the taxpayer), provided that the facts on which they were based remain the same. During that period, the ruling may be reviewed at the instigation of either the taxpayer or the Taxation Office and altered by a subsequent ruling. At the end of the period, the ruling will lapse if not renewed. The lapsing date is referred to in the glossary as a *sunset clause*.

9.12 In line with this new approach to sunset clauses, this Ruling hereby gives notice that private rulings on sale or taxable value that issued after 30 June 1992 will cease to be effective 5 years from their date of issue, or such earlier date specified in the ruling. When a private ruling lapses, a taxpayer may choose to:

- determine a sale value on the basis of principles set out in this Ruling;
- adopt an appropriate Safe Harbour; or
- request a new private ruling.

Requests for replacement private rulings may be lodged with their Service Branch of the Taxation Office at least one month prior to their expiry.

9.13 Private rulings on sale value issued before 30 June 1992 will cease to be effective on 1 July 1997. Written requests for replacement private rulings (if they are necessary) may be lodged with the Service Branch of the Taxation Office prior to 1 March 1997. A copy of the previous private ruling and an explanation of the basis on which it should be continued should be included with the request. Interim rulings

preserving the previous value will be issued if a final ruling cannot be issued prior to 30 June 1997.

- 9.14 Where a private ruling is altered or withdrawn by the Taxation Office subsequently issuing either another private ruling to that taxpayer or a public ruling, three months' notice will usually be given prior to the withdrawal taking effect. However, taxpayers should note that legislative changes automatically withdraw rulings based on the former legislation, from the date of effect of the legislative change.

Taxable value agreements

- 9.15 Agreements under section 43 of the *Sales Tax Assessment Act 1992* and section 18(5B) of the *Sales Tax Assessment Act (No 1) 1930* are not altered by this Ruling. However, agreements that are current should be registered with the Taxation Office by 1 March 1997. Requests for registration may be sent to the address given above for registration of industry rulings. A copy of the existing agreement should be provided. Notice is hereby given that taxable value agreements not registered by 1 March 1997 will be regarded as having lapsed on that date, unless the agreement specifies a different date.
- 9.16 Individual taxable value agreements will not be published. However, where agreements are requested by several taxpayers in similar circumstances, the Taxation Office may publish a Sales Tax Determination making the terms of individual agreements available to other taxpayers.
- 9.17 Individual agreements entered into in the future will be subject to a sunset clause, being a date not more than 5 years from commencement. During that period, a taxpayer may approach the Taxation Office for an agreement on different terms should their circumstances change. Individual agreements are not altered by the subsequent issue of rulings, but three months' notice of termination of an agreement may be given via a ruling. Legislative changes do not automatically withdraw agreements based on the former legislation.

Chapter 10: Glossary of terms

assessable dealing

Sales and other transactions covered by Table 1

Paragraph 1.16

<i>concession arrangement</i>	An arrangement where a retailer allows an Indirect Marketer to conduct business from within its premises and the Indirect Marketer provides its own staff
Paragraphs 3.38 and 3.39	
<i>fair wholesale profit</i>	An amount that would provide the wholesaler with a reasonable return on investment, having regard to the rates of return on other comparable investments and the balance of profits between wholesale and retail
Paragraphs 3.6, 3.7, 3.10 and 3.26	
<i>GAAP or general anti-avoidance provisions</i>	Provisions that allow the Commissioner to cancel a tax benefit in certain circumstances.
Paragraphs 1.13, 2.5, 2.8 and 2.10	
<i>into store cost</i>	The <i>into store cost</i> means the purchase price of the goods plus duties, inwards transport costs to the non-manufacturer's premises (or as it directs) and any other directly attributable costs of acquisition of the goods. In determining the purchase price of goods, only the rebates identified at paragraphs 2.18 and 2.19 can be deducted from the invoice price.
Paragraph 3.27	
<i>manufacturing costs</i>	The cost of materials, plus direct labour costs, plus production overheads.
Paragraph 3.8	
<i>non-arm's length transaction</i>	Where parties are not dealing with each other so that the outcome of their dealing is a matter of real bargaining.
Chapter 5	
<i>notional wholesale expenses</i>	the expenses that would have been associated with selling the goods if they were sold by wholesale.
Paragraph 3.10	
<i>notional wholesale purchase price</i>	The price (excluding sales tax) for which the taxpayer could reasonably have been expected to buy the goods by wholesale under an arm's length transaction.
Paragraphs 4.1 to 4.4	
<i>notional wholesale selling price</i>	The price (excluding sales tax) for which the taxpayer could reasonably have been expected to sell the goods by wholesale under an arm's length transaction.
Paragraph 3.2 and Chapter 3.	

price for which the goods were sold

The total amount that the buyer promises, expressly or tacitly, to pay to get good title to the goods.

Paragraph 2.2 and Chapter 2.

Safe Harbour

A statement of how to calculate taxable value that the Taxation Office accepts as completely discharging the taxpayer's liability.

Paragraphs 1.4 to 1.9

sunset clause

A provision in a ruling or agreement that specifies the date on which the ruling will cease to operate.

Paragraphs 9.11 and 9.17

Table 1

Table 1 of Schedule 1 of the *Sales Tax Assessment Act 1992*, setting out the normal taxable value for each assessable dealing with goods

Paragraphs 1.2 and 1.16

taxable value agreement

A formal written agreement that will prevail over the ordinary taxable value provisions of the law.

Paragraphs 8.4 - 8.7, 9.15 - 9.17

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- delivery charges; exempt parts; general anti-avoidance provisions; non-arm's length transactions; notional wholesale selling price; price for which the goods were sold; Section 43 agreements; substitute and special taxable values; taxable value; trade incentive payments

legislative references

- *Sales Tax Assessment Act 1992*; Sections 14, 36, 37, 38, 39, 40, 41, 42, 42AA, 43, 45, 46, 48, 49, 50, 50A, 77, 93A, 95(1), subdivision B and C of Division 3, Division 4, Table 1
- *Sales Tax (Exemptions & Classifications) Act 1992*; Schedule 1, Items 5, 95, 96, 97, 144A, 171(1); Schedule 6, Item 1
- *Sales Tax Amendment (Transitional) Act 1992*; subsection 5(2)
- *Customs Tariff*; item 15 Part 1 Schedule 4
- *Sales Tax Assessment Act (No 10) 1985*

related rulings

ST 2109; ST 2268; SST 4; STD 95/2; STD 96/5; STD 95/11

case references

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AAT Case Z29 92 ATC 267; *AAT Case 8145* (1992) 23 ATR 1243
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