

ADDENDUM TO Public Ruling Sales Tax PR ST 02/2016 – CHARGEABILITY OF SALES TAX ON THE SALE OF COMPUTERS

Preamble

This Addendum is a Public Ruling made under section 23A of the Sales Tax Act (Cap.125) (the Act).

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to persons generally or to a class of persons in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you - provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Addendum is about

This Addendum amends PR 02/2016 to clarify what services are liable to sales tax.

1. In PR 02/2016, the Commissioner's interpretation of the application of section 2, section 3 and Schedule One of the Sales Tax Act in relation to the sale of computers was set out. The Commissioner advised that the sale of a computer is a 'professional service' under Schedule One of the Act and as such the sale of computers is liable to sales tax. It was provided that sales tax must be charged on 10% of the sale value of the computer.

Ruling

2. The Commissioner has reexamined his interpretation and considers that it is the services in respect of the sale of the computer that is liable to sales tax rather than the sale value of the computer. The sale of the Computer would have Goods Tax imposed on it. Where

services connected to the sales would have sales tax imposed on them such as services in respect of package, manuals maintenance and training are subject to sales tax.

3. The Commissioner acknowledges that the wording of the definition in Schedule One of the Act of computer services “(including sale of computer, package, manuals, maintenance and training)” implies the sales tax is imposed on sales of computers. However, the Commissioner is of the opinion that the words “services in respect of” should be read into (ii) of the definition of computer services after the word “including”. To read otherwise would be to be imposing sales tax on an item which had already had Goods Tax imposed on it and for which no professional services have been provided. The Commissioner is of the view that Parliament could only have been intended to make services in respect of the sale of the computer liable to sales tax rather than the sale of the computer itself.
4. “Professional services” relating to sale of computers would represent amounts charged for the time spent by a consultant, technician or an advisor for:
 - (a) giving advice to a customer in relation to what computers or packages would be appropriate for their organisation for example, advice on system requirements or suggested IT solutions for a particular business environment;
 - (b) preparation of a manual detailing how a computer system operates;
 - (c) the value of services to add software, programs such as Microsoft, office, security scans and computer games and the like to the computer
 - (d) time spent on maintaining the computer, for example by performing virus scans or cleaning up the directory for the customer; or
 - (e) time spent providing training on how to use the computers.
 - (f) repair of computers or its parts.

Date of Effect

5. This Addendum applies to years of income commencing both before and after its date of issue.

Joseph Dokekana
Commissioner of Inland Revenue
Dated March 2019

 ***This Appendix sets out examples. It does not form part of the binding public ruling.***

Appendix 1

Examples

6. Solcomputer Limited imports computers for sale. The computers cost \$2,000. It pays Goods Tax on the cost at the wharf in addition to the import duty. It also imports computer games and pays import duty and Goods Tax.
7. At its store it unpacks the computers and installs some software into the computer. It then places the computer on display. Eric buys the computer from Solcomputer with the installed software for \$2,500 and requests that Solcomputer installs some computer games which he had purchased onto the computer.
8. Solcomputer is liable to sales Tax on the value of the services for installing the software to the computer and installing the computer games. It is not liable for sales tax on the value of the computer nor the value of the software and computer games. For example, it takes 1 hour to install the software and games. Solcomputer charges \$100 for this service. Solcomputer should charge \$10 sales tax for the service.
9. Eric comes back to Solcomputer one week later and asks for one its staff to train him on how to use the computer. This takes two hours and Solcomputer charges Eric \$150 for the training. Solcomputer should charge \$15 sales tax for the service.