



Australian Government

**Department of Immigration
and Border Protection**

Guidelines to Schedule 4 of the *Customs Tariff Act 1995* Concessional Rates of Duty

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Introduction

The Guidelines to Schedule 4 of the *Customs Tariff Act 1995* (the Customs Tariff) are designed to explain the administration and eligibility of the new and revised Schedule 4 concessions.

The new Schedule 4 was legislated in the *Customs Tariff Amendment (Schedule 4) Act 2012* which repealed and replaced the previous Schedule 4, and came into effect on 1 March 2013.

Schedule 4 of the Customs Tariff lists 55 concessional items covering various goods and user categories in respect of which concessional rates of import duty are payable. Schedule 4 delivers a range of policy objectives, including industry assistance and the implementation of tariff concessions arising from international treaties.

The reform of Schedule 4 was a result of a review conducted in 2010 by the Better Regulation Ministerial Partnership between the then Ministers for Finance and Deregulation; Innovation, Industry, Science and Research; and Home Affairs, to simplify the existing tariff concession regime.

It was considered that the old Schedule 4 was complex and difficult to use. This was due, in part, to unnecessary overlapping of concessions, the presence of redundant or rarely used concessions, and unclear wording. This complexity imposed burdens on industry that invariably flowed on to consumers, and may have resulted in an overall reduction in business activity and investment.

The amendments to Schedule 4 reduce regulatory red tape and unnecessary complexity. They have achieved this by consolidating concessions of similar coverage and removing redundant or rarely used concessions.

The new Schedule 4 has revised concessional items and descriptive headings for each concessional item grouping, for example “Goods of a scientific, educational or cultural kind”. Further, Schedule 4 continues to deliver a range of policy objectives, including industry assistance and the implementation of tariff concessions arising from international treaties. The scope of concessions and the duty rates have not been affected.

Most concessions that apply to “goods as prescribed by by-law” now have new by-laws some of which have been reworded to improve clarity. Some concessions that apply to “goods as prescribed by by-law” will operate through individual determinations rather than standing by-laws.

Importers, brokers and manufacturers will benefit from the amendments and the general clarification of the legislative and administrative provisions of the Act. The following guidelines will better reflect and explain the nature of all changes to help stakeholders to use Schedule 4 items which cover their goods or circumstances.

Glossary of Terms

The Department

The Department of Immigration and Border Protection.

By-laws

A by-law is a legislative instrument made under section 271 of the *Customs Act 1901*. By-laws made for Schedule 4 items set out the conditions, circumstances and/or goods which must exist for the item to be used.

Customs Duty

Duties set out in the Customs Tariff that apply to goods imported into Australia.

The Customs Tariff

The *Customs Tariff Act 1995* sets out in law the Convention on the Harmonized Commodity Description and Coding System, which is the international system for classifying goods, and provides for general and concessional duty rates.

Collectors of Customs (the Collector)

May refer to the Comptroller-General of Customs, or the Regional Director for a State or Territory, or any officer performing a duty in the matter in relation to which the expression is used.

Delegate

Refers to a person delegated with the Comptroller-General's powers under section 271 or 273 of the *Customs Act 1901*.

Determination

An administrative instrument that determines that a Schedule 4 item applies to particular goods as specified in the determination. Determinations are made on a case by case basis under Section 273 of the *Customs Act 1901*.

Good and Services Tax (GST)

A broad-based indirect tax introduced by the Government to replace wholesale sale tax and a number of State indirect taxes. The GST commenced on 1 July 2000 and taxes the consumption of most goods, services, and the provision of information. It also applies to taxable importations of goods.

GST Act

A New Tax System (Goods and Services Tax) Act 1999.

GST Exemption Code

A numerical code that provides a GST exemption in the Integrated Cargo System for particular goods set out *A New Tax System (Goods and Services Tax) Act 1999*.

Harmonized Commodity Descriptions and Coding System (HS)

An international system of classification of commodities developed and maintained by the World Customs Organization and used to classify goods for customs and regulatory purposes. It is used as the basis of the majority of countries' tariff systems and this facilitates international trade, regulation and statistical analysis.

Home Consumption

Refers to the final stage of an importation process where goods are released into the normal trade and commerce of Australia.

Integrated Cargo System (ICS)

The ICS is the computer system used by the Department to monitor and report the movement of goods across the Australian border.

NTIS

National Temporary Imports and Securities.

Reference Number

An eight-digit Schedule 4 classification used to classify goods when they fall under a Schedule 4 item which has a reference number specified. Schedule 4 reference numbers begin with 9999.

Schedule 3

Schedule 3 of the Customs Tariff lists tariff classifications and duty rates for goods imported into Australia.

Schedule 4

Schedule 4 of the Customs Tariff provides for concessional rates of duty on imports of goods that meet certain special conditions or circumstances set out in 55 items.

Statistical Code

Statistical codes are produced by the Australian Bureau of Statistics. It is not part of the Customs Tariff but is incorporated in the Working Tariff as statistical codes must be provided on import declarations. The statistical codes are used primarily for comparability and comparison of foreign trade statistics. They are written in italics in the working tariff to indicate that they are not part of the Customs Tariff.

Tariff Classification

An eight-digit number in the Customs Tariff with a rate of duty specified and under which goods are classified.

Tariff Concession Order (TCO)

Orders granted under the Tariff Concession System (TCS) to enable concessional importation of goods into Australia where no substitutable goods are produced in Australia in the ordinary course of business. The TCS is legislated through Part XVA of the *Customs Act 1901*. There are restrictions on the types of goods that are eligible for a TCO. Once made, a TCO is open to all importers who import goods that fall under the TCO.

Tariff Working Pages

Refers to the Combined Australian Customs Tariff Nomenclature and Statistical Classification which incorporates the Customs Tariff and the Australian Harmonized Statistical Classification. The Tariff Working Pages are designed for day to day use in determining tariff classifications, rates of duty and statistical codes for goods imported into Australia.



Treatment Code

A numerical code set out in the Tariff Working Pages that is used with items in Schedule 4 when entering goods under certain concessions through the Integrated Cargo System. When there is no reference number for the item, the goods are classified in accordance with their Schedule 3 classification and the treatment code is specified on the declaration to identify the concessional item and duty rate applicable to the relevant goods.

Under Security

A payment or undertaking usually equivalent to the duty otherwise payable given to the Department in circumstances where a duty concession is dependent on the adherence to certain post-importation conditions (refer section 42 of the *Customs Act 1901*).

Contacts

The Department Immigration and Border Protection

General Enquiries

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Cheese and Curd

Cheese and Curd Officer

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Goods of a scientific, educational or cultural kind

Item 1 – Scientific goods, instruments and apparatus

Goods, as prescribed by by-law, that are:

- (a) Scientific instruments or apparatus to which Annex D to the Educational, Scientific and Cultural Materials Agreement, or Annex D to the Educational, Scientific and Cultural Materials Protocol, applies; or
- (b) Of a scientific nature and covered by an agreement or arrangement between the Government of Australia and the government of another country or other countries on cooperation in the field of science and technology

Duty Rate: Free

GST: Payable

Instrument: Yes, by-law

Treatment Code: 701

GST Exemption Code: N/A

By-law Numbers: 1301137, 1301139

Application

Item 1 provides a duty rate of Free for eligible goods.

Goods entered under item 1 are subject to the GST.

Administration

Item 1 is administered through treatment code 701 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the relevant by-laws.

Entry requirements for item 1 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 1 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 1 covers scientific instruments and apparatus to which Annex D to the Educational, Scientific and Cultural Materials Agreement or Annex D to the Protocol to that Agreement applies. This is commonly known as the Florence Agreement.

The Educational, Scientific and Cultural Materials Agreement and Protocol are defined in subsection 3(1) of the Customs Tariff. This item is administered by two by-laws.

By-law No. 1301137 prescribes goods for the purposes of paragraph (a) of item 1, as follows:

- (a) Scientific apparatus and equipment, as specified in the Florence Agreement (provided below)
- (b) Spare parts, components or accessories specially designed for use with the scientific instruments or apparatus equipment allowed entry under this item ; and
- (c) Tools specially designed for the maintenance, checking, gauging or repair of the scientific instruments or apparatus allowed entry under this item.

The goods may be imported for an organisation listed in Table A of the by-law. The goods may also be imported for:

- (a) Higher education providers within the meaning of the *Higher Education Support Act 2003*;
- (b) All registered training organisations as listed on the National Register under the *National Vocational Education and Training Regulator Act 2011*;
- (c) Schools directly or indirectly funded under the *States Grants (Schools Assistance) Act 1984*; or
- (d) Similar scientific or education institutions, approved by the Minister for Industry, Innovation, Science, and Research, the Minister for Tertiary Education or by the Minister for Education.

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) Agreement on the Importation of Educational, Scientific and Cultural Materials (Florence, 1950) and the Protocol to the Agreement (Nairobi, 1976) were designed to reduce tariff and trade obstacles for educational, scientific and cultural materials. The contracting parties to the Agreement agreed not to apply customs duties on materials listed in the five annexes (Annexes A, B, C, D and E) to the Agreement. The Protocol further extended the duty free exemption to additional materials. Australia acceded to the Agreement and the Protocol in 1992.

The Educational, Scientific and Cultural Materials Agreement means the Agreement on the Importation of Educational, Scientific and Cultural Materials, done at Florence on 17 June 1950 (the Florence Agreement).

For item 1 the relevant text of the Florence Agreement is Annex D - Scientific Instruments or Apparatus.

Scientific instruments or apparatus, intended exclusively for educational purposes or pure scientific research, provided:

- (a) That such scientific instruments or apparatus are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used under the control and responsibility of these institutions;
- (b) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

The Educational, Scientific and Cultural Materials Protocol means the Protocol to the Educational, Scientific and Cultural Materials Agreement, being the Protocol done at Nairobi on 26 November 1976.

For item 1 the relevant text of the Protocol is Annex D - *Scientific instruments or apparatus, provided:*

- (a) That they are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used for non-commercial purposes under the control and responsibility of these institutions;
- (b) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

Scientific or education institutions that wish to import scientific instruments and apparatus under this concession, but are not nominated in the by-laws, must obtain the specific approval of the Minister for Industry, Innovation, Science and Research, the Minister for Tertiary Education or the Minister for Education.

Matters taken into consideration when approving an institution include whether the institution is not for profit, whether the importations are purely for research purposes, and whether the institution has systems in place to ensure the concession is claimed only for those goods that are not produced in Australia. Institutions seeking access to the concession must contact the Department for referral to the appropriate Department for consideration and, if appropriate, referral to a relevant Minister.

The following is an indicative list of “scientific instruments and apparatus”:

Astronomical instruments (e.g. coelostats, spectroheliographs, spectrohelioscopes, telescopes, transit instruments).

Balances, analytical, chemical and other precision balances.

Compound optical microscopes, whether or not provided with means of photographing or projecting the image.

Electrical measuring, checking and analysing instruments and apparatus (e.g. ammeters, ohmmeters and voltmeters, frequency meters, measuring bridges, oscilloscopes and oscillographs, phase meters, potentiometers and synchrosopes).

Geophysical instruments (e.g. seismographs and seismometers).

Hydrological instruments (e.g. bucket-wheel current meters, rain gauges and indicators, level recorders, swell and tide recorders).

Instruments and apparatus for measuring or checking quantities of heat, light or sound (e.g. calorimeters, luxmeters, photometers).

Instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or similar radiations (e.g. dosimeters, geiger counters, scintillation counters).

Instruments and apparatus for physical or chemical analysis or research (e.g. colorimeters, polarimeters, refractometers, saccharimeters, spectrophotometers, spectrometers, spectroscopes).

Machines and appliances for testing mechanically the hardness, strength, compressibility, elasticity and the like properties of industrial materials (e.g. metals, wood, textiles, paper or plastics).

Meteorological instruments (e.g. actinometers, anemometers, nephoscopes, sunshine recorders).

Microscopes and diffraction apparatus, electron and proton.

Nuclear physics equipment.

By-law No. 1301139 prescribes goods for the purposes of paragraph (b) of item 1. The goods are to be of a scientific nature and covered by an agreement or arrangement to cooperate in the field of science and technology between the Australian Government and the Government of another country/countries.

One of the following conditions must be met:

- 1) The Collector must have approved in writing, the kinds and quantities of goods to be imported and the uses to which those goods will be put; or
- 2) In accordance with the agreement or arrangement, the goods are required to be allowed entry into Australia free of customs duty.

To fulfill condition 1 the importer is required to apply in advance to the Schedule 4 Officer in the National Trade and Advice Centre (Customs House, Melbourne VIC) with details of the importation, the kinds and quantities of goods to be imported, the uses to which those goods will be put and the dates of importation.

Although no definition of “scientific nature” is provided in the Customs Tariff, such goods must be of a kind for use as components or materials in a research project by a university or a research institute. This excludes goods such as:

- Furniture and furnishings;
- Stationery;
- Apparel;
- Vehicles;
- Food and beverages

For further information regarding the above-mentioned Agreement and Protocol refer Appendix 1.

Item 2 – Reference materials

Specimens of materials or substances, where:

- (a) The property values of one or more of those specimens are sufficiently homogeneous and/or well established to be used for the calibration of an apparatus, the assessment of a measurement method or the assignment of a value to a material; or
- (b) The specimens are to be used for the comparison and assessment of laboratory practices; or
- (c) The specimens are to be examined as part of a program of developing a reference material.

Duty Rate: Free
GST: Payable
Instrument: No

Treatment Code: 702
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 2 provides a duty rate of Free for eligible goods.

Goods entered under item 2 are subject to the GST.

Administration

Item 2 is administered through treatment code 702. Item 2 must only be used for materials or substances where subheading 3822.00.50 and Chapter 38 Note 2 are not applicable. Goods entered under item 2 must comply with the terms of that item.

Entry requirements for item 2 require goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 2 in accordance with subsection 18(1) of the Customs Tariff.

The Educational, Scientific and Cultural Materials Agreement and Protocol are defined in subsection 3(1) of the Customs Tariff.

Eligibility and Background

Item 2 applies to specimens of materials or substances (for example, metal alloys with accurately known compositions) which are used as the standard against which like materials and processes are compared. Used for the calibration of an apparatus, for the assessment of laboratory practices or to develop a reference material.

Reference materials are mainly metallic compounds with accurately known compositions which are used as a standard against which like materials and processes are compared and apparatus calibrated.

“Certified reference materials” are defined in Note 2 (A) to Chapter 38 of Schedule 3 to the Customs Tariff. The term “certified reference materials” means those materials and substances materials which are accompanied by a certificate which indicates the values of the certified properties, the methods used to determine these values and the degree of certainty associated with each value and which are suitable for analytical, calibrating or referencing purposes.

Chapter 38 Note 2 (B) specifies that for the classification of certified reference materials, heading 3822 must take precedence over any other heading of Schedule 3, irrespective of any exclusion notes in Chapter 38. However, this provision does not apply to inorganic and organic chemicals of Chapters 28 and 29.

Item 2 applies to those reference materials, specimens and substances that do not meet the terms of Chapter 38 Note 2, for example where a certificate from an authorised laboratory or research institution is not available.

Item 3 – Books, visual and auditory goods

Goods, as prescribed by by-law, that are:

- (a) Books, publications or documents to which Annex A to the Educational, Scientific and Cultural Materials Agreement, or Annex A to the Educational, Scientific and Cultural Materials Protocol, applies; or
- (b) Visual or auditory materials to which Annex C to the Educational, Scientific and Cultural Materials Agreement, or Annex C.2 to the Educational, Scientific and Cultural Materials Protocol, applies.

(i)

Duty Rate: Free

GST: Payable

Instrument: Yes, by-law

Treatment Code: 703

GST Exemption Code: N/A

By-law Number: 1300557

Application

Item 3 provides a duty rate of Free for eligible goods.

Goods entered under item 3 are subject to the GST.

Administration

Item 3 is administered through treatment code 703 which must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to also be quoted on the declaration.

Entry requirements for item 3 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 3 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 3 applies to books and visual or auditory materials as specified in the UNESCO Agreement on the Importation of Educational, Scientific and Cultural Materials Agreement and Protocol. However, many of these goods have a Free rate of duty in the Customs Tariff. Therefore, By-law No. 1300557 written to item 3 only prescribes the following goods:

- (a) microforms;
- (b) patterns, models and wall charts for use exclusively for demonstrational purposes;
- (c) film.

For the purposes of this by-law, “microforms” is taken to mean an arrangement of images that are substantially reduced in size from the original form, such as microfilm, microfiche, microcards, or any other form of image reduction.

The term microform is intended to be interpreted broadly in order to accommodate new technology.

“Film” may include both developed and undeveloped film.

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) Agreement on the Importation of Educational, Scientific and Cultural Materials (Florence, 1950), which is commonly known as the Florence Agreement, and the Protocol to the Agreement (Nairobi, 1976) were designed to reduce tariff and trade obstacles for educational, scientific and cultural materials. The contracting parties to the Agreement agreed not to apply customs duties on materials listed in the five annexes (Annexes A, B, C, D and E) to the Agreement. The Protocol further extended the duty free exemption to additional materials. Australia acceded to the Agreement and the Protocol in 1992.

Item 3 covers books, publications or documents to which Annex A to the Educational, Scientific and Cultural Materials Agreement, or Annex A to the Protocol to that Agreement applies and visual or auditory materials to which Annex C to the Educational, Scientific and Cultural Materials Agreement, or Annex C.2 to the Protocol to that Agreement applies (see Appendix 1).

The exemptions provided by Annex A do not apply to:

- (a) Stationery;
- (b) Books, publications and documents (except catalogues, travel posters and travel literature, referred to above) published by or for a private commercial enterprise, essentially for advertising purposes;
- (c) Newspapers and periodicals in which the advertising matter is in excess of 70 per cent by space;
- (d) All other items (except catalogues referred to above) in which the advertising matter is in excess of 25 per cent by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.)

Item 4 – Calendars and catalogues

Goods, as prescribed by by-law, that are calendars, catalogues, overseas travel literature, overseas price lists or other overseas printed matter

Duty Rate: Free

GST: Free

Instrument: Yes, By-laws

Reference Number: 9999.32.04/01

GST Exemption Code: 4041

By-law Numbers: 1300595, 1300601

Application

Item 4 provides a duty rate of Free for eligible goods.

Goods entered under item 4 are exempt from the GST.

Administration

Item 4 is administered through reference number 9999.32.04/01. When used, this reference number requires the appropriate by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the items and the terms of the relevant by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 4 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 4 applies to calendars, catalogues, overseas travel literature and other printed matter of previous item 33A. This item is administered through two by-laws.

By-law No. 1300601 prescribes kinds of goods and quantities of goods which are imported for an event approved by the Collector in accordance with:

- (a) Article 1 of the Customs Convention concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events; or
- (b) Annex B.1 to the Convention on Temporary Admission.

Goods which are imported under this by-law must be goods listed in:

- (a) Article 7 or subparagraph 1(d) of Article 6 to the Customs Convention concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events; or
- (b) Subparagraph 1(d) or 1(e) of Article 5 to Annex B.1 to the Convention on Temporary Admission.

By-law No. 1300595 prescribes goods as follows:

- (a) Documents that are for free distribution and that do not contain more than 25% private commercial advertising;
- (b) Overseas travel literature and printed matter designed for general publicity purposes, the chief purpose of which is to encourage the public to visit a foreign country, and in which any reference to Australia or Australian persons is incidental;
- (c) technical materials sent to accredited representatives or correspondents appointed by national official tourist agencies, not intended for distribution;
- (d) Blank Admission Temporaire/Temporary Admission (ATA) carnets, prepared in accordance with the Customs Convention on ATA carnets; and
- (e) Paper catalogues or paper price lists relating exclusively to goods and/or services of a country other than Australia, designed for international distribution and not directed specifically at Australian consumption.

Additional conditions apply to the entry of the above prescribed goods. Refer to the by-law for full information.

Item 4 covers goods set out in Article 6 of the Customs Convention Concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs Meetings or Similar Events – Waiver of Import Duties; and goods set out in Annex B - Article 5 and Article 7 of the Convention Relating to Temporary Admission (see Appendix 1).

Item 5 – Printed matter and pictorial illustrations

Goods that are:

- (a) Printed matter, including printed pictures and photographs, that is the property of any public institution and is intended for deposit with, or exhibition in, that institution; or
- (b) Pictorial illustrations for teaching purposes in universities, colleges, schools or public institutions

Duty Rate: Free
GST: Payable
Instrument: No

Reference Number: 9999.70.05/02
GST Exemption Code: N/A
Instrument No.: N/A

Application

Item 5 provides a duty rate of Free for eligible goods.

Goods entered under item 5 are subject to the GST.

Administration

Item 5 is administered through reference number 9999.70.05/02. When used, this reference number requires users of the item to comply with the terms of the item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 5 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 5 applies to printed matter for deposit or exhibition in a public institution – paragraph (a) and pictorial illustrations for teaching purposes – paragraph (b).

Item 5 paragraph (a) applies to printed matter, including printed pictures and photographs, that is the property of any public institution and is intended for deposit with, or exhibition in, that institution.

To meet this criterion, goods must be ‘printed matter’ and must be the property of a public institution, such as a museum or art gallery. The goods must be consigned for permanent storage or public display in those institutions. Printed matter includes books, maps, diagrams etc., that may also be hand written or hand produced.

Item 5 paragraph (b) applies to pictorial illustrations for teaching purposes in universities, colleges, schools or public institutions.

To meet this criterion, goods must be pictorial illustrations that are for teaching purposes in universities and other educational institutions, or for public institutions.

Item 6 – Photographic plates and film

Goods, as prescribed by by-law, classified under heading 3705 of Schedule 3 (about certain photographic plates and film)

Duty Rate: Free
GST: Payable
Instrument: Determination
Other: PIN required

Treatment Code: 706
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 6 provides a duty rate of Free for eligible goods.

Goods entered under item 6 are subject to the GST.

Administration

Importers seeking to use the item 6 concession must apply to a delegate of the Comptroller-General of Customs for a determination.

Item 6 is administered through treatment code 706 that must be quoted on import declarations. When used, this treatment code requires a determination number to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the determination.

Entry requirements for item 6 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item. Note that tariff classifications are limited to the two subheadings specified above, 3705.10.00 or 3705.90.90.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 6 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 6 applies to exposed and developed photographic plates and films that are classified in heading 3705 of the Customs Tariff.

This item is administered by determination under the following criteria:

Importers must make a formal application to Schedule 4 Officer. This application must contain the following:

- the purpose of the importation;
- a full description of the goods;
- the quantity of the goods to be imported;
- the date range in which the importation will occur;
- the proposed tariff classification of the goods; and
- customs value of the importation

The item 6 concession provides for exposed film for use in the printing of the international content of newspapers, magazines or periodicals or books which, if imported, would be free of duty or for educational or scientific purposes.

The intention of this item is to allow the importation of goods of a scientific, educational or cultural kind, that is, the goods are not to be for commercial or advertising purposes.

Educational and scientific purposes can be interpreted broadly. Educational purposes include teaching in schools, universities and other educational institutions; and also public institutions that offer educational services. Scientific purposes include use in scientific or research laboratories, or for use in the preparation of scientific papers etc.

Other Matters

Item 6 may cover similar goods to item 3. Item 3 covers goods which are eligible under the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Agreement and Protocol on the Importation of Educational, Scientific and Cultural Materials (see Appendix 1).

Item 7 – Works of art

Works of art or collectors' pieces:

- (a) To which Annex B to the Educational, Scientific and Cultural Materials Agreement, or Annex B to the Educational, Scientific and Cultural Materials Protocol, applies; and
- (b) That are consigned to a library, museum, gallery or institution that is covered by item 12.1.2, 12.1.3, 12.1.4 or 12.1.5 of the table in subsection 30-100(1) of the *Income Tax Assessment Act 1997* and is endorsed under Subdivision 30-BA of that Act as a deductible gift recipient

Duty Rate: Free
GST: Payable
Instrument: None

Treatment Code: 707
GST Exemption Code: N/A
Instrument Numbers: N/A

Application

Item 7 provides a duty rate of Free for eligible goods.

Goods entered under item 7 are subject to the GST.

Administration

Item 7 is administered through treatment code 707. When used, this treatment code requires users of the item to comply with the terms of the item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 7 in accordance with subsection 18(1) of the Customs Tariff.

Entry requirements for item 7 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

The Educational, Scientific and Cultural Materials Agreement and Protocol are defined in subsection 3(1) of the Customs Tariff.

Eligibility and Background

Item 7 applies to works of art and collectors' pieces to which Annex B to the Educational, Scientific and Cultural Materials Agreement (commonly known as the Florence Agreement) or Annex B to the Protocol to that Agreement applies.

When considering eligibility of goods for item 7, regard should be had to the notes of Chapter 97 of Schedule 3 of the Customs Tariff in order to assist in identifying objects of art and original works of art.

To be eligible for item 7 goods must satisfy two principle criteria:

1. The goods must be works of art or collectors' pieces covered by Annex B of the Florence Agreement or Annex B to the Protocol to the Agreement and

2. The goods must be consigned to a library, museum, gallery etc.

On 1 March 2013, new definitions were inserted in subsection 3(1) of the Customs Tariff, as follows:

Educational, Scientific and Cultural Materials Agreement means the Agreement on the Importation of Educational, Scientific and Cultural Materials, done at Florence on 17 June 1950.

Educational, Scientific and Cultural Materials Protocol means the Protocol to the Educational, Scientific and Cultural Materials Agreement, being the Protocol done at Nairobi on 26 November 1976.

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) Agreement on the Importation of Educational, Scientific and Cultural Materials (Florence, 1950) and the Protocol to the Agreement (Nairobi, 1976) were designed to reduce tariff and trade obstacles for educational, scientific and cultural materials (see Appendix 1).

Item 8 – Theatrical and traditional costumes

Goods, as prescribed by by-law, that are:

- (a) Theatrical costumes or props; or
- (b) Traditional costumes

Duty Rate: Free
GST: Payable
Instrument: Yes, by-laws

Treatment Code: 708
GST Exemption Code: N/A
By-law Numbers: 1243719, 1243816

Application

Item 8 provides a duty rate of Free for eligible goods.

Goods entered under item 8 are subject to the GST.

Administration

Item 8 is administered through treatment code 708 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration.

Entry requirements for item 8 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 8 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

The item 8 concession applies to theatrical costumes and props - paragraph (a) and traditional costumes – paragraph (b).

For the purposes of By-law No. 1243719, theatrical costumes may be of an historical or more modern nature, including those of 'modern European use and fashion'.

The by-law also applies to theatrical props for theatrical representations. These props must be made of metal.

By-law No. 1243719 places conditions on the application of item 8 to these goods. The Collector must be satisfied that the goods are for theatrical representations, and the goods must be exported within six months of importation (or such further period as the Collector may in writing allow). Evidence of the exportation must be provided to the satisfaction of the Collector.

The item 8 concession, paragraph (b) is intended to facilitate the importation of traditional costumes in non-commercial quantities.

By-law No. 1243816 prescribes traditional costumes for the purposes of item 8 paragraph (b). The traditional costumes are to be authentic in design, made from traditional materials in the country of the tradition's origin, and imported by groups established for the purpose of performing in those traditional costumes.

The item does not apply to textile materials that would be used to make such traditional costumes, even if such materials are sourced in the country of the tradition's origin.

The costume must be imported by a group who will perform in their traditional costumes. For the purposes of this concession, as there is no definition of "group" in the Customs Tariff, the dictionary definition applies. The concession is not available to individual importers or persons and goods must be imported by the group on behalf of the members.

It is recognised that it is difficult to define traditional costumes and also that some traditional costumes, for example gypsy skirts, may also be normal attire, depending on fashion trends. Eligibility for item 8 therefore must take into consideration factors such as quantities and the nature of the goods being imported. Importers are encouraged to seek advice from the Schedule 4 Officer before using this item.

Goods for international bodies or persons or goods relating to offshore areas

Item 9 – Goods for international organisations

Goods, as prescribed by by-law, that:

- (a) For the official use of an international organisation established by agreement between the Government of Australia and the government of another country or other countries; or
- (b) For the official or personal use of an official of such an international organisation

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Reference Number: 9999.30.09/03
GST Exemption Code: N/A
By-law Number: 1300603

Application

Item 9 provides a duty rate of Free for eligible goods.

Goods entered under item 9 are subject to the GST.

Administration

Item 9 is administered through reference number 9999.30.09/03. When used, this reference number requires the by-law to be quoted on the import declaration. Users of the item must comply with the terms of the item and the by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 9 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 9 applies to goods that are for the official use of an international organisation established by agreement between the Government of Australia and another country.

By-law No. 1300603 prescribes goods that are owned by and for the official use of an organisation. Table 1 attached to paragraph 3 lists three international organisations that are currently the subject of intergovernmental agreements.

The international organisations listed in Table 1 of the by-law must not use the item for goods which would be subject to excise duty, if produced or manufactured in Australia.

By-law No. 1300603 also prescribes furniture, personal and household effects that are for the official use, or personal use, of an official of an organisation listed in the by-law in Table 2. The by-law lists two international organisations that are currently the subject of intergovernmental agreements.

Officials of an organisation listed in Table 2 of the by-law must not use the item for:

- (a) Motor vehicles; or
- (b) Goods, which would be subject to excise duty, if produced or manufactured in Australia.

The term “official use” in paragraph 3 of the by-law requires that goods should be for the normal business of the particular organisation listed. Such goods should not be for trade or exchange and should not be for personal use. Such goods could include office supplies; computer equipment catalogues etc., but would exclude sporting equipment and bedding.

In addition, paragraph 4 permits the importation for goods for personal use for the officials of two of the organisations. These goods can include clothing, furniture and other personal effects, but do not include motor vehicles. The term “motor vehicles” includes all motor vehicles, including motor bikes and passenger motor vehicles.

Paragraph 7 of the by-law specifies a period of six months before or after the first arrival of the official for the time for importing personal goods or such period as the Collector may allow.

In both cases, goods that would be subject to excise duties if manufactured in Australia (alcohol and tobacco products) are specifically excluded. Alcoholic beverages include wine, beer spirits etc. Tobacco products include loose tobacco, cigarettes and cigars etc.

The provisions of this by-law reflect the provisions of the original agreements between Australia and those organisations.

Other Matters

Note that Supplementary provisions item 106 may also cover these organisations. The Supplementary Provisions are an administrative mechanism to give effect to import concessions existing in other Commonwealth legislation.

Item 106 of the Supplementary Provisions of the Customs Tariff provides for goods that are imported for the official or personal use of an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies.

Item 10 – Goods of foreign governments

Goods, as prescribed by by-law, that:

- (a) At the time they are entered for home consumption, are owned by the government of a foreign country and are for the official use of that government; and
- (b) Are not to be used for the purposes of trade

Duty Rate: Free

GST: Free

Instrument: Yes, by-laws

Reference Number: 9999.30.10/04

GST Exemption Code: 410

By-law Numbers: 1243557, 1243684

Application

Item 10 provides a duty rate of Free for eligible goods.

Goods entered under item 10 are exempt from the GST.

Administration

Item 10 is administered through reference number 9999.30.10/04. When used, this reference number requires the appropriate by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the relevant by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 10 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 10 applies to goods that are owned by the Government of a foreign country and that are for the official use of that government. The item also requires that the goods must not be used for the purposes of trade. Two by-laws are written to this item.

By-law No. 1243557 prescribes goods which, in an agreement or arrangement between the Australian Government and the government of another country are required to be allowed entry into Australia free of customs duty.

The goods must:

- (a) Be owned by the government of a country other than Australia at the time of entry for home consumption;
- (b) Be for the official use of that government; and
- (c) Must not be used for the purposes of trade.

For the purposes of By-law No. 1243557, importers should be prepared to provide details of the relevant agreement or arrangement to an officer of the Department, when required.

By-law No. 1243684 prescribes goods, quantities of goods and uses of goods that the Minister has approved in writing prior to importation.

The goods must:

- (a) Be owned by the government of a country other than Australia at the time of entry for home consumption;
- (b) Be for the official use of that government; and
- (c) Must not be used for the purposes of trade.

For the purposes of By-law No. 1243684, application should be made to the Minister administering the Customs Tariff to obtain the necessary approval.

Other Matters

Note that supplementary provisions items 101 to 105 may also be applicable for importations of similar goods. The Supplementary Provisions attached to Schedule 4 of the Customs Tariff are an administrative mechanism to give effect to import concessions existing in other Commonwealth legislation.

Items 101 through to 105 of the Supplementary Provisions cover imports for diplomatic or consular purposes as provided for in the *Diplomatic (Privileges and Immunities) Act 1967* and the *Consular (Privileges and Immunities) Act 1967*, respectively.

Item 11 – Goods for foreign forces

Goods, as prescribed by by-law, that are for use by, or for sale to, persons the subject of a Status of Forces Agreement between the Government of Australia and the government of another country or other countries

Duty Rate: Free
GST: Free
Instrument: Yes, by-laws

Reference Number: 9999.30.11/05
GST Exemption Code: 411
By-law Numbers: 1300964, 1300978, 1300982, 1300987, 1300989, 1300995

Application

Item 11 provides a duty rate of Free for eligible goods.

Goods entered under item 11 are exempt from the GST.

Administration

Item 11 is administered through reference number 9999.30.11/05. When used, this reference number requires the appropriate by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the relevant by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 11 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 11 applies to goods that are the subject of a Status of Forces Agreement (SOFA) between Australia and another country and goods for commissaries. The item provides for the duty free admission of goods, of an approved class or kind, in accordance with the conditions of the relevant SOFA. Six by-laws are made for the purposes of item 11.

By-law No. 1300978 prescribes the following goods for the purposes of the SOFA between the Government of Australia and the Government of Malaysia:

- (a) Personal effects, furniture and household goods (other than cigarettes, cigars, tobacco or spirituous liquors) of a member of a Malaysian Visiting Force, civilian component of such a force or a dependant.
- (b) A motor vehicle imported by a member of a Malaysian Visiting Force or civilian component of such a force.

The above clauses are subject to conditions as detailed in the SOFA.

By-law No. 1300982 prescribes the following goods for the purposes of the SOFA between the Government of Australia and the Government of New Zealand:

- (a) The personal effects, furniture and household goods (other than cigarettes, cigars, tobacco or spirituous liquors) of a member of a New Zealand Visiting Force, the civilian component of such a force, or a dependant; and

- (b) A motor vehicle imported by a member of a New Zealand Visiting Force or civilian component of such a force.

The above clauses are subject to conditions as detailed in the SOFA.

By-law No. 1300987 prescribes the following goods for the purposes of the SOFA between the Government of Australia and the Government of Papua New Guinea:

- (a) The personal effects, furniture and household goods (other than cigarettes, cigars, tobacco or spirituous liquors) of a member of a Papua New Guinea Visiting Force, the civilian component of such a force, or a dependant; and
- (b) A motor vehicle imported by a member of a Papua New Guinea Visiting Force or civilian component of such a force.

The above clauses are subject to conditions as detailed in the SOFA.

By-law No. 1300989 prescribes the following goods for the purposes of the SOFA between the Government of Australia and the Government of the Republic of Singapore:

- (a) The personal effects, furniture and household goods (other than cigarettes, cigars, tobacco or spirituous liquors) of a member of a Singapore Force, a civilian component of such a force or of a dependant; and
- (b) Motor vehicles imported by a member of a Singapore Force, by a civilian component of such a force or by a dependant.

The above clauses are subject to conditions as detailed in the SOFA.

By-law No. 1300995 prescribes the following goods for the purposes of the SOFA between the Government of Australia and the Government of the United States of America:

- (a) The personal effects, furniture and household goods (other than cigarettes, cigars, tobacco or spirituous liquors) of a member of the United States Forces, the civilian component, or a dependant;
- (b) Motor vehicles, imported by a member of the United States Forces or of the civilian component;
- (c) Goods (other than tobacco products, spirituous liquors or fur apparel) imported from the United States through military post offices by a member of the United States Forces or the civilian component or a dependant.

The above clauses are subject to conditions as detailed in the SOFA.

By-law No. 1300964 prescribes goods for commissaries for the purposes of a SOFA. The goods are to be for use by, or for sale to, persons the subject of a SOFA between the Government of Australia and the government of another country.

Item 12 – Trade Commissioner goods

Goods, as prescribed by by-law, that, at the time they are entered for home consumption, are for the official use of a Trade Commissioner of any country

Duty Rate: Free

GST: Yes

Instrument: Yes, by-law

Reference Number: 9999.30.12/06

GST Exemption Code: N/A

By-law Number: 1243830

Application

Item 12 provides a duty rate of Free to eligible goods.

Goods entered under item 12 are subject to the GST.

Administration

Item 12 is administered through reference number 9999.30.12/06. When used, this reference number requires the by-law to be quoted on the import declaration. Users of the item must comply with the terms of the item and the by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 12 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 12 applies to goods for the use of a Trade Commissioner of any country.

By-law No. 1243830 prescribes goods that, at the time of entry for home consumption, are for the official use of a Trade Commissioner of any country. The by-law excludes alcoholic beverages, tobacco products, motor vehicles, air and sea craft from the application of item 12.

The term “official use” in the by-law requires that the goods should be for the normal business of a Trade Commissioner, should not be for trade or exchange and should not be for personal use. Such goods could include office supplies, computer equipment, catalogues etc., but would exclude sporting equipment and bedding.

Item 13 – Goods subject to the Torres Strait Treaty

Goods, as prescribed by by-law, in relation to which the customs procedures of the Commonwealth are to be applied in the manner mentioned in Article 16 of the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 713
GST Exemption Code: N/A
By-law Number: 1243872

Application

Item 13 provides a duty rate of Free for eligible goods.

Goods entered under item 13 are subject to the GST.

Administration

Item 13 is administered through treatment code 713 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 13 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 13 in accordance with subsection 18(1) of the Customs Tariff.

For item 13, the text of the treaty is set out in Australian Treaty Series 1985 No. 4 ([1985] ATS 4). In 2012, the text of Treaty in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au)

Eligibility and Background

Item 13 implements Article 16 of the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978.

By-law No. 1243872 prescribes goods imported by the traditional inhabitants of the area covered by the Treaty, for the use by these inhabitants, in traditional activities within, or in the vicinity of, the Protected Zone. The Protected Zone means the zone established under Article 10 of the Treaty, being the area bounded by the line described in Annex 9 to the Treaty.

The terms “traditional inhabitants”, “traditional activities” and “in the vicinity of” are defined by the by-law, as set out in the Treaty.



In brief, the by-law applies to goods imported by Torres Strait Islanders for the purposes of traditional activities, such as hunting and religious ceremonies. Further examples of traditional activities are set out in the by-law.

Item 14 – Eastern Greater Sunrise offshore area goods

Goods, as prescribed by by-law, that are for use in a petroleum activity in the Eastern Greater Sunrise offshore area (within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*)

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 714
GST Exemption Code: N/A
By-law Number: 1300532

Application

Item 14 provides a duty rate of Free for eligible goods.

Goods entered under item 14 are subject to the GST.

Users of the by-law are not eligible for fuel tax credits on fuel entering the Eastern Greater Sunrise area.

Administration

Item 14 is administered through treatment code 714 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 14 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 14 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 14 applies to goods that are for use in a petroleum activity in the Eastern Greater Sunrise offshore area. The item has one by-law.

In brief, the by-law applies to goods, including whole goods and parts and accessories, imported for use in a petroleum activity in the Eastern Greater Sunrise offshore area.

The by-law excludes goods that are for personal or domestic use, including food, beverages (including alcoholic beverages), tobacco, toiletries and clothing. However, protective safety clothing used for a petroleum activity is allowed.

The term “Petroleum activity” is defined in section 3(1) of the Customs Tariff and is also reproduced in the text of the by-law.

The meanings of “Eastern Greater Sunrise offshore area” and “petroleum pipeline” are the same as those in section 7 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.



Item 22A was created and came into force in April 2004 through the *Customs Tariff Amendment (Greater Sunrise) Act 2004*. This Act, along with the *Greater Sunrise Unitisation Agreement Implementation Act 2004* gave effect to the Greater Sunrise International Unitisation Agreement (IUA) between Australia and East Timor which was signed in March 2003.

The Greater Sunrise petroleum unitisation area straddles Australia's boundary and the Joint Petroleum Development Area, which is jointly administered by Australia and East Timor by virtue of the Timor Sea Treaty between the two countries that was legislated in Australia by the *Petroleum (Timor Sea Treaty) Act 2003*. The IUA allows for the development of petroleum resources of the Greater Sunrise field, which comprises the Sunrise and Troubadour petroleum reservoirs.

Goods that are personal effects

Item 15 – Personal effects for passengers and ship or aircraft crew

Goods, as prescribed by by-law, that are:

- (a) Goods imported by passengers or members of the crew of ships or aircraft;
- (b) Goods that:
 - (i) At the time they are approved for delivery for home consumption, are the property of a person who has arrived in Australia on an international flight within the meaning of section 96B of the *Customs Act 1901*; and
 - (ii) Were purchased by that person in an inwards duty free shop within the meaning of that section; or
- (c) Goods brought into, or sent to, Australia by such members of the Defence Force stationed outside Australia as are prescribed by by-law; or
- (d) Goods imported by members of the forces of Canada, New Zealand or the United Kingdom; or
- (a) Passengers' personal effects, furniture or household goods

Duty Rate: Free
GST: Free
Instrument: Yes, by-laws

Reference Number: 9999.40.15/41
GST Exemption Code: N/A
By-law Numbers: 1300938,
1300942, 1300953

Application

Item 15 provides a duty rate of Free for eligible goods.

Goods entered under item 15 are exempt from the GST.

Administration

Item 15 is administered through reference number 9999.40.15/41. When used, this reference number requires the appropriate by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the items and the terms of the relevant by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 15 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 15 covers goods imported by passenger and crew, inward duty free purchases, goods brought in or sent to Australia by members of the Defence Force stationed outside Australia, goods imported by members of forces of Canada, New Zealand or United Kingdom, and passengers' personal effects. Three new by-laws have been written to this item.



By-law No. 1300938 prescribes motor vehicles imported by members of the forces of Canada, or the United Kingdom, subject to the conditions set out in the by-law.

For the purposes of this by-law, “member of the forces of Canada or the United Kingdom” means a person belonging to land, sea or air armed services of those countries temporarily serving in Australia under arrangements agreed on by the Government of Australia and the Governments of Canada and the United Kingdom.

By-law No. 1300942 prescribes unaccompanied passenger goods, subject to the conditions set out in the by-law.

By-law No. 1300953 prescribes accompanied passengers or crew members’ goods, subject to the conditions set out in the by-law.

Goods that are returned to Australia

Item 16 – Repair goods under an article of a free trade agreement

Goods that are covered by an article of a free trade agreement between Australia and one or more other countries, being an article that is prescribed by by-law and that relates to the export of goods from Australia for one or more of the following:

- (a) Repair;
- (b) Renovation;
- (c) Alteration;
- (d) Other similar processes

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Codes: 716 and 816
GST Exemption Code: N/A
By-law Numbers: 1244018, 1244032

Application

Item 16 provides a duty rate of Free for eligible goods after exportation for repair, renovation, alteration or other similar processes.

Goods entered under item 16 are subject to the GST.

Administration

Item 16 is administered through treatment codes 716 and 816 as the goods are required to be entered on two lines, as follows:

- 716 Value of goods before repair or renovation
- 816 Cost, as determined by the Comptroller-General of Customs, of materials, labour and other charges involved in the repair or renovation

For the purposes of item 16, the transport and insurance costs for these goods must be attributed to the tariff line for the cost involved in the repair or renovation (section 117-5 of *A New Tax System (GST) Act 1999* refers). Further information may be obtained from Australian Customs Cargo Advice Number 07/22.

When item 16 is used, the treatment codes require the appropriate by-law to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the relevant by-law.

Entry requirements for item 16 require goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 16 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 16 applies to goods that are covered by an article in a Free Trade Agreement that are exported for repair or renovation etc.

The Australia-US Free Trade Agreement and the Australia-Chile Free Trade Agreement require both parties to provide duty free entry for goods imported from the territory of the other party after temporary exportation for repair or alteration.

By-law No. 1244018 prescribes Article 3.7 of the Australia-Chile Free Trade Agreement. Article 3.7 is for “Goods Re-entered after Repair or Alteration”.

The “Australia-Chile Free Trade Agreement” means the Australia-Chile Free Trade Agreement done at Canberra in July 2008.

By-law No. 1244032 prescribes Article 2.6 of the Australia-US Free Trade Agreement. Article 2.6 is for “Goods Re-entered after Repair or Alteration”.

The “Australia-US Free Trade Agreement” means the Australia-US Free Trade Agreement done at Washington DC in May 2004.

The references in those articles exclude use of the concession when the repair or renovation operation destroys the essential character of the goods or transforms them into other goods.

Item 17 – Goods exported and returned to Australia in an unaltered condition

Goods, as prescribed by by-law:

- (a) That have been exported from Australia and returned to Australia without having been subject to any treatment, repair, renovation, alteration or any other process since their export; and
- (ii)
- (b) That are not goods to which item 17A of this Schedule applies
- (iii)

Duty Rate: Free

Reference Number: Yes

GST: May be Payable (See below)

Instrument: Yes, by-laws

Treatment Codes: 171, 172

Reference Number: 9999.32.17/07

GST Exemption Code: 417

By-law Numbers: 0176871, 1300536

Application

Item 17 provides a duty rate of Free for eligible goods.

Goods entered under item 17 may be subject to the GST.

Administration

Item 17 is administered through treatment codes 171 and 172 and reference number 9999.32.17/07. When used, these treatment codes and reference number require the appropriate by-law to be quoted on the import declaration. Users of the item need to comply with the terms of the item and the terms of the relevant by-law.

Reference number 9999.32.17/07 refers to goods reimported after being exported on a temporary basis to the Australian Antarctic Territory including Heard and McDonald Islands. When used, this reference number requires By-law No. 1300536 to be quoted on the import declaration.

Treatment code 171 applies to Other goods reimported after being exported on a temporary basis.

Treatment code 172 applies to Other.

Goods entered under treatment codes 171 and 172 are to use By-law No. 0176871. These treatment codes require the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 17 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 17 applies to goods that have been exported from Australia and returned in an unaltered condition, that have not been subject to repair, alteration or any other process.

The item covers both goods produced or manufactured in Australia and goods originally sourced overseas, that were exported from Australia and that have subsequently been re-imported provided duties of the Commonwealth were paid when first imported.

By-law No. 0176871 prescribes goods, which have been exported from Australia and returned in an unaltered condition, that have not been subject to treatment, repair, renovation, alteration or any other process.

The goods prescribed by the by-law do not include goods, including excisable goods in respect of which duties of the Commonwealth were payable prior to exportation, but were not paid. It also does not include goods for which a refund or drawback has been paid and an amount equal to such refund or drawback has not been paid to the Commonwealth.

For the purposes of item 17, paragraph 4 of By-law No. 0176871 allows operations for the necessary maintenance or repair of returned goods, provided that such operations do not increase the value of the goods. Paragraph 4 gives effect to the provisions of Standard 5 to Chapter 2 – *Re-importation in the same state* - of the Revised Kyoto Convention (see Appendix 1). For this reason “repair” does not include operations necessary for the preservation or maintenance of the goods.

For example, repair and maintenance on a motor vehicle that is necessary for its continued and safe operation while overseas is permitted. However, a motor vehicle on which a stereo system has been installed is not permitted under item 17, as this would enhance the value of the vehicle.

By-law No. 1300536 prescribes goods that have been exported from Australia on a temporary basis to the Australian Antarctic Territory, including Heard and McDonald Islands.

Other Matters

Goods exported for the purposes of repair are not eligible for the item 17 concession, even if those goods have not been altered through the repair.

Item 17 cannot be used for goods that were swapped with other goods, even if such goods are identical. Documentary evidence may be required that the goods being imported under item 17 were the same goods that were previously exported.

If returned goods do not meet the above provisions for item 17, items 18, 19 or 20 may apply if the goods are being returned after repair overseas.

Item 17 does not apply to returned goods on which any taxes or charges of the Commonwealth are owing. The provision also extends to goods that contain components on which any duties or charges of the Commonwealth owe. These taxes and charges include, but are not limited to, Customs duties including excise-equivalent duties, wine equalisation tax (WET), Luxury Car Tax (LCT) and GST. Further this provision also applies to goods or goods containing components where refund or drawback of Customs duty has been made and that amount not paid to the Commonwealth.

For example, item 17 does not apply to goods, or goods containing components if these goods were imported at Free or reduced rates of duty under an industry assistance scheme, such as the Tradex Scheme, subsequently exported and then re-imported.



Alcohol and tobacco products when manufactured in Australia for export are not subject to excise duties under the *Excise Tariff Act 1921*. However, if these goods are returned to Australia, excise equivalent duties are payable.

If any taxes or charges are owed on returned goods, then item 17A should be used. However, note that the same conditions, that the returned goods must not be altered in any way, continue to apply.

Item 17 is not to be used for goods that have been imported for repair or alteration in Australia and are to be re-exported, these types of goods would be more appropriately covered by item 21 (see item 21 guideline for more information).

Item 17A – Goods exported and returned unaltered to Australia on which duties or taxes are owing

Goods produced in Australia that:

- (a) Have been exported from Australia and returned to Australia without having been subject to any treatment, repair, renovation, alteration or any other process since their export; and
- (b) Contain one or more of the following:
 - (i) Components (the *tradex components*) previously imported by the holder of a tradex order under the *Tradex Scheme Act 1999* in which the components were specified, except components on which tradex duty has been paid under section 21 of that Act;
 - (ii) Components (the *drawback components*) in respect of which there has been a drawback or refund of any duties of the Commonwealth;
 - (i) Components (the *excise components*) that, at a time before they were exported, were excisable goods (within the meaning of the *Excise Act 1901*) in respect of which excise duty (payable under the *Excise Tariff Act 1921*) was not paid.

Duty Rate: Payable
GST: Payable
Instrument: None

Treatment Code: 173
GST Exemption Code: N/A
Instrument Number: N/A

Application

The duty for item 17A is as follows:

The sum of:

- (a) The amount of duty that would apply to each Tradex component and drawback component if each component were imported separately; and
- (b) The amount of duty that would apply to each excise component if each component were imported separately (disregarding duty to the extent that it is worked out by reference to a percentage of the value of goods)

Item 17A goods are subject to the GST.

Administration

Item 17A is administered through treatment code 173. Users of item 17A need to comply with the terms of the item.

The import declaration is to show the tariff classification and statistical requirements, in Schedule 3, that apply to the complete goods. The amount of duty, calculated as set out in the rate column, must also be entered in the Override Duty amount field of the import declaration.

Entry requirements for item 17A require goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 17A in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 17A applies to goods that have been produced in Australia, exported from Australia and returned in an unaltered condition, not having been subject to repair, alteration or any other process, and on which taxes or charges of the Commonwealth are owing. These taxes and charges include, but are not limited to, duties of Customs including excise-equivalent duties, wine equalisation tax (WET), Luxury Car Tax (LCT) and GST.

Item 17A is applicable to goods on which duties and taxes of the Commonwealth are owing. Situations where this may be the case include:

- Where excisable products (within the meaning of the *Excise Tariff Act 1921*) were manufactured in Australia for export and are returned to Australia, excise equivalent duties are payable.
- Where goods contain components that were imported under by the holder of a Tradex Order.
- Where components have been subject to a drawback or refund of duty.

In such cases, item 17A provides the mechanism for the duties, charges or taxes to be paid on the re-imported goods.

Item 18 – Warranty and safety recall goods

Goods:

- (a) That were previously imported into Australia, that have been returned after repair overseas free of charge under warranty and that are neither upgraded goods nor goods in respect of which there has been a drawback or refund of any duties, taxes or charges of the Commonwealth; or
- (b) That are supplied free of charge under warranty, or as part of a global product safety recall, to replace goods (the *replaced goods*) previously imported into Australia, and that are neither upgraded goods nor goods to replace goods which have reached the end of their operational life, where:
 - (i) The replaced goods are of no commercial value, the replaced goods have been or will be destroyed or the replaced goods have been or will be exported and will not be re-imported under any item of this Schedule; and
 - (ii) The replaced goods are not goods in respect of which there has been a drawback or refund of any duties, taxes or charges of the Commonwealth

Duty Rate: Free
GST: Free
Instrument: None

Treatment Codes: 184, 185, 186 and 187
GST Exemption Code: 418
Instrument Number: N/A

Application

Item 18 provides a duty rate of Free for eligible goods.

Goods entered under item 18 are exempt from the GST.

Administration

Item 18 is administered through treatment codes 184, 185, 186 and 187. Users of the item need to comply with the terms of the item.

Treatment codes 184 and 185, apply to goods specified in paragraph (a) of item 18 that were previously imported into Australia, and have been returned after repair overseas free of charge under warranty:

184: Value of goods before repair

185: Cost of materials, labour and other charges involved in the repair

Treatment codes 186 and 187, apply to goods specified in paragraph (b) of item 18:

186: Goods that are supplied free of charge under warranty, to replace goods previously imported into Australia.

187: Goods that are supplied free of charge as part of a global product safety recall, to replace goods previously imported into Australia.

Entry requirements for item 18 require goods to be entered under the tariff classification and statistical code set out in Schedule 3 to the Customs Tariff before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 18 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 18 applies to warranty and safety recall goods and covers both whole goods and parts of goods.

Paragraph (a) of item 18 applies to goods:

- (a) That were previously imported into Australia; and
- (b) Have been returned after repair overseas free of charge under warranty.

These goods must meet the following conditions:

- (a) The goods must not be upgraded goods and;
- (b) The goods must not be goods in respect of which there has been a drawback or refund of any duties, taxes or charges of the Commonwealth.

Paragraph (b) of item 18 applies to goods:

- (a) That are supplied free of charge under warranty, or as part of a global product safety recall; and
- (b) That replace goods (the **replaced goods**) previously imported into Australia.

These goods must meet the following conditions:

- (a) The replaced goods must not be upgraded goods;
- (b) The replaced goods must not be goods to replace goods which have reached the end of their operational life;
- (c) The replaced goods must be of no commercial value;
- (d) The replaced goods have been or will be destroyed or exported and will not be re-imported under any item of Schedule 4; and
- (e) The replaced goods must not be goods in respect of which there has been a drawback or refund of any duties, taxes or charges of the Commonwealth.

Item 19 – Repair goods subject to a tariff concession order

(i)

Goods:

- (a) That a tariff concession order under section 269Q of the *Customs Act 1901* declares are goods to which this item applies; and
- (b) Whose identity has not been altered since the day they were exported from Australia

Duty Rate: Free

GST: Payable

Instrument: Yes, TCO

Treatment Codes: 719, 819

GST Exemption Code: N/A

Instrument Number: N/A

Application

Item 19 provides a duty rate of Free for eligible goods and also does not impose customs duty on the cost of materials, labour and other charges involved in the repair.

Goods entered under item 19 are subject to the GST. GST is payable on the repair costs only and an apportioned amount of the transport and insurance costs, as the value of the goods sent overseas for repair or renovation is exempt GST (section 117-5 of the GST Act refers).

Administration

Item 19 is administered through two treatment codes 719 and 819. Treatment code 719 applies to the value of the goods before repair. Treatment code 819 applies to the cost of materials, labour and other charges involved in the repair. Both treatment codes must be quoted on import declarations. When this item is used, the number for the applicable Tariff Concession Order (TCO) made for the purposes of item 19 (not item 50) must also be quoted on the import declaration. Users of item 19 must comply with the terms of the item and the terms of the applicable TCO.

Entry requirements for item 19 require goods returned after repair to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 19 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 19 allows for the making of a TCO for Australian goods to be repaired overseas where it can be established that there is no one in Australia capable of carrying out the repairs in the ordinary course of business.

Item 20 – Goods exported for repair or renovation

Goods, as prescribed by by-law, that satisfy the following:

- (a) Either:
 - (i) They have been exported from Australia for repair or renovation and returned after being repaired or renovated; or
 - (ii) They are part of a batch repair process to replace goods exported from Australia for repair or renovation;
- (b) They are not new or upgraded versions of the exported goods;
- (c) They are not goods to which item 16, 18 or 19 of this Schedule applies;
- (d) Under Schedule 3, 5, 6, 7, 8, 10 or 11 duty on the goods is worked out by reference to a percentage (the applicable percentage) of the value of the goods

Duty Rate: Payable on cost of repair

GST: Free

Instrument: Yes, by-law

Treatment Codes: 820, 829

GST Exemption Code: 420

Instrument Number: 1305083

Application

Item 20 imposes a duty on the cost of the repair of the returning Australian goods but not on the goods themselves.

Goods exported for repair or renovation under item 20 are GST free. However, GST is payable on the cost of the repair or renovation of those goods plus the cost of the transport and insurance charges for the international transport of the goods which must be attributed to the tariff line involved in the repair or renovation (section 117-5 of the GST Act refers).

Further information on GST arrangements for item 20 is contained in Australian Customs Cargo Advice No. 07/22.

Administration

Item 20 is administered through two treatment codes. Treatment code 820 will apply to the value of the original goods before repair or renovation. Treatment code 829 applies to the cost of materials, labour and other charges involved in the repair or renovation as determined by the Comptroller-General of Customs. Consequently two lines must be quoted on import declarations.

When used, these treatment codes require the by-law to be quoted on the import declaration.

Users of the item must comply with the terms of the item and the terms of the by-law.

Entry requirements for item 20 require goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

For repaired goods that have a Free duty rate

In this case, it is not necessary to quote a treatment code for these goods. However, two lines must be quoted on import declarations: one for the goods and one for the cost of the repair that will include transport and insurance costs. As noted, any transport and insurance costs must be attributed to the cost of repair.

Eligibility and Background

Item 20 applies to goods that have been exported for repair or renovation and subsequently returned to Australia (subject to certain conditions) or to goods that are repaired under a batch repair process – see definition below.

The goods that have been repaired or removed must not be new or upgraded versions of the exported goods. The intention of the item is that the character of the goods does not change as a result of the processes performed abroad. In particular, the goods must be reimports and entered under the same tariff classification in Schedule 3.

A motor vehicle exported for the fitting of LPG tanks and then re-imported would not be eligible for item 20. In this case, these goods would be altered to such an extent that they had become different commercial items, with different characteristics, even though the tariff classification had not changed.

Item 20 excludes goods that are covered by items 16 (repair goods under an article of a free trade agreement), 18 (warranty and safety recall goods) and 19 (repair goods subject to a TCO).

By-law No. 1305083 replaces previous By-law No. 9740004.

The by-law prescribes goods that have either:

- (a) Been exported from Australia for repair or renovation and returned after repair or renovation; or
- (b) Are part of a batch repair process to replace goods exported from Australia for repair or renovation.

The prescribed goods are not to have been subject to any process other than that required to effect the repair or renovation, are not to be new or upgraded versions of the exported goods and the exported goods are not to have reached the end of their effective operational life. Goods that have 'reached the end of their effective operational life' include goods which are worn out or not otherwise capable of being repaired or renovated.

Batch repair process

"Batch repair process" is defined in By-law No. 1305083 and means a system of repairing or renovating goods whereby defective goods are exchanged for identical goods which have already undergone repair or renovation.

Duty rate

The duty rate for item 20 is specified as:

“The applicable percentage of the cost, as determined by the Comptroller-General of Customs, of materials, labour and other charges involved in the repair or renovation”.

Item 20 defines an *applicable percentage* as the rate of duty, when expressed as a percentage, set out in Schedules 3, 5, 6, 7, 8, 10 or 11. The duty rate then imposes this rate on the cost of the repair. For example if goods would normally attract a 5% duty rate in Schedule 3 then this is the rate that would apply to the cost of the repair or renovation and the transport and insurance cost.

Item 20 is therefore not applicable to goods that are Free under the above Schedules.

Goods that are to be exported from Australia

Item 21 – Goods for repair or alteration to be exported

Goods, as prescribed by by-law, that are:

- (a) Imported for repair or alteration; and
- (b) To be exported from Australia

Duty Rate: Free
GST: Free
Instrument: Yes, by-law

Treatment Codes: 521, 921
GST Exemption Code: 421
By-law Numbers: 1304161, 1304168

Application

Item 21 provides a duty rate of Free for eligible goods.

Goods entered under item 21 are exempt from the GST.

Administration

Item 21 is administered through treatment code 521 – for Australian goods returned for repair or alteration or treatment code 921 – for Other (Schedule of Concessional Instruments, Part II). There are two by-laws that have been made for the purposes of item 21. When used, item 21 requires that the relevant by-law number be quoted on the import declaration. Users of the item need to comply with the terms of the item and the terms of the relevant by-law.

Entry requirements for item 21 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 21 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 21 provides an import concession for goods that are imported for repair or alteration and are then re-exported. There are two by-laws made to this item.

By-law No. 1304161 relates to goods that are made in Australia that are returned for repair or alteration, and are to be re-exported.

By-law No. 1304168 relates to goods that are imported into Australia for repair or alteration, and are to be exported, under security.

Security Provisions

A security is to be lodged with the NTIS of the Department for goods imported under this by-law to ensure compliance with the conditions. Securities are assessed on a case by



case basis. For further information and to apply to lodge a security for item 21 email ntis@border.gov.au with details of the importation, the item number and applicable by-law number.

Item 21A – Tradex goods

Goods that are specified in a tradex order in force under the *Tradex Scheme Act 1999* and are imported by the holder of that order

Duty Rate: Free

GST: Free

Instrument: Yes, Tradex Order

Treatment Code: 821

GST Exemption Code: 421A

Instrument Number: N/A

Application

Item 21A provides a duty rate of Free for eligible goods covered by a tradex order made under the *Tradex Scheme Act 1999* (Tradex Scheme).

Goods entered under 21A are exempt from the GST are also exempt from the GST as a “non-taxable importation” under sub-section 45-5(1) of *A New Tax System (Goods and Services Tax) Act 1999*.

Administration

Item 21A was not renumbered on 1 March 2013 as part of the Tariff Concession Rationalisation process and remains unchanged. Existing Tradex orders made for item 21A continue to operate.

Item 21A is administered through treatment code 821. When used, this treatment code requires the relevant tariff classification (and associated statistical key) and a Tradex order instrument number to be quoted on the import declaration. Users of the item will need to ensure their goods comply with the terms of the tariff classification, the terms of the item, the terms of the tradex order, and the requirements of the Tradex Scheme.

Where imports fall within duty-free tariff classifications, or are duty-free under a free trade agreement, but a tradex order holder under the Tradex Scheme wishes to seek GST exemption, GST exemption code 421A should be quoted instead of treatment code 821 and the tradex order instrument number.

Eligibility and Background

This item was introduced in 2000 with the introduction of the Tradex Scheme which replaced the Tariff Export Concession Scheme (see Australian Customs Notice 2008/28).

The Department of Industry, Innovation and Science has policy oversight for the Tradex Scheme, and the scheme continues to be administered by AusIndustry. Further information regarding access to the scheme is available at:

<http://www.business.gov.au/grants-and-assistance/import-export/tradex/Pages/default.aspx>

Item 22 – Containers used to import goods, being containers that will be exported without being put to any other use

The following goods:

- (a) Goods, as prescribed by by-law, that are imported on or in containers, as prescribed by by-law, where the containers will be exported without being put to any other use;
- (b) Those containers

Duty Rate: The containers - Free
Goods on or in the containers - the rate of duty that would apply to the goods if they were imported separately.

GST: Certain containers are exempt*

Instrument: Yes, by-laws

Treatment Code: 822

Reference Number: 9999.30.22/08

GST Exemption Code: 422*

By-law Numbers: 1244196, 1244204

Application

Item 22 provides a duty rate of Free for eligible containers.

Containers covered by item 22 are non-taxable importations. Sea-freight shipping containers are duty free in their own right; therefore item 22 does not apply.

* Shipping containers that are intended to be imported and entered for home consumption are subject to the GST, however shipping containers imported temporarily may be covered by Section 68 (1)(g) or (h) of the *Customs Act 1901* (Customs Act) or the temporary importation provisions of Section 162A of the Customs Act and Division 171 of the *A New Tax System (GST) Act 1999* (GST Act).

For more information see subsection 42-5(1A) in the GST Act and [http://www.border.gov.au/Busi/Duty/Indi/Brokers/GST-Exemptions-\(non-taxable-importations\)](http://www.border.gov.au/Busi/Duty/Indi/Brokers/GST-Exemptions-(non-taxable-importations))

Administration

Item 22 is administered through treatment code 822 or reference number 9999.30.22/08 that must be quoted on import declarations. When used, this treatment code or reference number requires the appropriate by-law number to be quoted on the import declaration.

Entry requirements for item 22 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 22 in accordance with subsection 18(1) of the Customs Tariff.

Treatment code 822 is only to be used for those containers specified in paragraph 3(b) of by-law No. 1244196 (i.e. reusable containers other than containers specified in 5 (b) of the General Rules for Interpretation).

Reference number 9999.30.22/08 applies to the containers specified in by-law No. 1244204.

Eligibility and Background

Item 22 applies to containers used to import goods, being containers that will be exported without being put to any other use. There are two item 22 by-laws.

By-law No. 1244196 prescribes goods imported on or in reusable containers. The containers are to be exported within 12 months of the date they are entered for home consumption, without being put to further use, other than for the transport, storage, display, exhibition or dispensing of the goods with which they were imported.

This by-law does not apply to reusable containers which are required to be classified with the goods with which they are imported by application of rule 5(b) of the General Rules for the Interpretation of the Harmonized System as set out in Schedule 1 of the Customs Tariff.

Containers imported using this by-law are subject to “under security provisions”. A security is to be lodged with the NTIS area of the Department to ensure compliance with the by-law conditions. Securities are assessed on a case by case basis.

For further information and to apply to lodge a security for this item 22 email ntis@border.gov.au with details of the importation, the item number and applicable by-law number.

By-law No. 1244204 prescribes:

- (a) Compressed or liquefied gas; and
- (b) Containers designed to be refilled, of a kind classified under heading 7311 of Schedule 3 and similar containers of base metal.

Containers imported using this by-law are not subject to “under security provisions”.

Goods that are donations or bequests

Item 23 – Donations or bequests

Goods, as prescribed by by-law, that have been:

- (a) Donated or bequeathed by a person, company or organisation resident or established outside Australia to an organisation established in Australia that is:
 - (i) A registered charity; or
 - (ii) A library, museum, gallery or institution, gifts to which are deductible because it is covered by item 12.1.2, 12.1.3, 12.1.4 or 12.1.5 of the table in subsection 30-100(1) of the *Income Tax Assessment Act 1997*; or
- (b) Donated or bequeathed to the public or to a public institution

Duty Rate: Free

GST: Free

Instrument: Yes, by-laws

Treatment Code: 723

GST Exemption Code: 423

By-law Numbers: 1301009, 1301035

Application

Item 23 provides a Free rate of customs duty for eligible goods.

Goods entered under item 23 are exempt from the GST.

Administration

Item 23 is administered through treatment code 723 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration.

Entry requirements for item 23 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 23 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 23 applies to goods donated or bequeathed to an organisation established in Australia for the purposes of philanthropic work and to goods donated or bequeathed to the public or to a public institution.

By-law No. 1301009 prescribes goods donated or bequeathed, for purposes in connection with disaster relief, by a person, company or organisation resident or established outside Australia to an organisation established in Australia that is:

- (a) A registered charity; or

- (b) A library, museum, gallery or institution, gifts to which are deductible because it is covered by item 12.1.2, 12.1.3, 12.1.4 or 12.1.5 of the table in subsection 30 100(1) of the *Income Tax Assessment Act 1997*.

The prescribed goods must not be sold, traded, exchanged, hired out or used for any commercial activities in Australia.

Organisation established in Australia

The goods must be donated to an organisation established in Australia for the purposes of providing disaster relief. Organisations include temporary agencies set up by Australian Federal, State or Territory Governments to provide disaster relief. Such organisations may also include existing agencies that become involved in disaster relief.

The conditions are intended to ensure that Australian organisations do not use the concession to import or trade in goods that have been entered Free of customs duty. In cases of a disaster that has been declared to be a disaster by, or with the approval of, a Minister of the Commonwealth, State or Territory, the Department will expedite goods imported under the item 23 concession.

A 'disaster' is defined in the by-law to be an event or circumstance declared to be a disaster by, or with the approval of, a Minister of the Commonwealth, State or Territory.

As required, the Department will give consideration to creating further by-laws or determinations for goods or circumstances that meet the criteria of item 23.

By-law No. 1301035 prescribes goods that have been donated or bequeathed to the public or to a public institution. By-law No. 1301035 does not apply to:

- (a) Goods that serve similar functions to goods which are produced in Australia;
- (b) Goods that serve similar functions to goods which are capable of being produced in Australia in the normal course of business;
- (c) Goods for which substitutable goods are produced in Australia in the ordinary course of business.

There is no definition of "public institution" in relevant legislation. In determining whether an organisation is a 'public institution' consideration will be given to its status in the community and whether its establishment and maintenance is seen as providing some public benefit that justifies an exemption from duty that other organisations do not receive.

Item 24 – Last will or intestacy goods not for sale or trade

Goods that:

- (a) Are not to be sold or to be used for the purposes of trade; and
- (b) The Collector (within the meaning of subsection 8(1) of the *Customs Act 1901*) is satisfied became the property of the importer under the will or the intestacy of a deceased person at a time when the importer was resident or established in Australia.

Duty Rate: Free
GST: Free
Instrument: None

Reference Number: 9999.60.24/01
GST Exemption Code: 424
Instrument Number: N/A

Application

Item 24 provides a duty rate of Free for eligible goods.

Goods entered under item 24 are exempt from the GST.

Administration

Item 24 is administered through reference number 9999.60.24/01. Users of the item must comply with the terms of the item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 24 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 24 applies to goods that became the property of the importer under the will or intestacy of a deceased person.

Intestacy is the condition of the estate of a deceased person owning property greater than the sum of his or her enforceable debts and funeral expenses without having made a valid will or other binding declaration. In this case, goods may be inherited by virtue of judicial decisions or direction.

To be eligible for the item 24 concession the following criteria apply:

- Bequeathed goods must not be sold or used for purposes of trade.
- The Collector must be satisfied that:
 - The goods became the property of the importer under the will or intestacy of the deceased person;
 - The importer was a resident or established (living) in Australia when the bequeathed goods became the property of the importer.

Examples of documents that may help satisfy the Collector that goods are eligible for item 24 are: a will or written statement from an appropriate legal entity that clearly identifies the goods being imported and the person to whom the goods are bequeathed;



or where goods are not specifically mentioned in a will, a letter or statutory declaration from the administrator or executor of the will.

Item 24 does not apply to goods that are donated or given to a recipient, if the donor is not declared deceased.

Goods that are trophies, decorations, medallions, certificates or prizes

Item 25 – Goods that are trophies, medallions or prizes

Goods, as prescribed by by-law, that are:

- (a) Trophies won outside Australia; or
- (b) Decorations, medallions or certificates awarded outside Australia; or
- (c) Trophies or prizes sent by donors resident outside Australia for presentation or competition in Australia

Duty Rate: Free

GST: Free

Instrument: Yes, by-law

Reference Number: 9999.51.25/09

GST Exemption Code: 425

By-law Number: 1301053

Application

Item 25 provides a duty rate of Free for eligible goods.

Goods entered under item 25 are exempt from the GST.

Administration

Item 25 is administered through reference number 9999.51.25/09. When used, this reference number requires the by-law to be quoted on the import declaration. Users of the item must comply with the terms of the item and the by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 25 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 25 applies to trophies, medallions, prizes and certificates etc. won or awarded outside Australia or to trophies and prizes sent by donors resident outside Australia for presentation or competition in Australia.

Item 25 gives effect to a provision in the Annex B (Relief from taxes and duties) of the Revised Kyoto Convention. This provision refers to awards to persons resident in the country of importation subject to the production of any supporting documents that are required by the Customs of the importing country.

By-law No. 1301053 prescribes:

- (a) Trophies won outside Australia in competition, that are appliances or articles of a kind used in an office or household and relates to paragraph (a) of the item;
- (b) Decorations, medallions or certificates awarded outside Australia and relates to paragraph (b) of the item;

- 
- (c) Trophies or prizes sent by donors resident abroad for presentation in competitions in Australia or for competitions in Australia organised or sponsored otherwise than in connection with commercial ventures. The trophies or prizes are to be suitable for display on the person, on the walls of dwellings or offices or on stands or similar mounts. This paragraph relates to paragraph (c) of the item.

The goods prescribed above do not include goods which are of an advertising nature.

Goods of low value

Item 26 – Goods of insubstantial value

Goods, as prescribed by by-law, whose value is less than the amount prescribed by by-law

Duty Rate: Free
GST: Free
Instrument: Yes, by-law
Other: By Determination

Reference Number: 9999.30.26/10
GST Exemption Code: N/A
By-law Number: 1305011

Application

Item 26 provides a duty rate of Free for eligible goods.

Goods entered under item 26 are exempt from the GST.

Administration

Item 26 is administered through reference number 9999.30.26/10. When used, this reference number requires the by-law to be quoted on the import declaration. Users of the item must comply with the terms of the item and the by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 26 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 26 applies to goods for which the duty and/or value are insubstantial. This item applies to goods as prescribed by by-law, whose value is less than the amount prescribed by by-law.

By-law No. 1305011 prescribes goods whose customs value is less than AUD\$1000.01. The by-law does not apply to:

- (a) Tobacco, tobacco products or alcoholic beverages;
- (b) Goods imported by a passenger or a member of the crew of a ship or aircraft arriving in Australia from a place outside Australia; or
- (c) Goods forming part of a bulk order.

Determination

The goods covered by previous By-laws Nos. 9640088 and 9640098 are now made by determination. Determinations may be made for goods (other than alcoholic beverages, tobacco, tobacco products or fuels) imported for an event approved by the Collector under:

- Article 1 of the Customs Convention Concerning the Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or

Similar Events (the Customs Convention), or

- Annex B.1 of the Convention on Temporary Admission (known as the Istanbul Convention).

Determination Criteria

Importers seeking to use the item 26 concession for the purposes of an Event (as identified above) must apply to the Schedule 4 Officer for a determination. The application must contain the following:

- A full description of the goods;
- The quantity of the goods to be imported;
- The date range in which the importation will occur;
- The proposed tariff classification of the goods;
- The value of the importation;
- The purpose of the importation;
- And a statement of explanation as to how the importation meets the terms of the item and the terms of subparagraph 1(b) or 1(c) of Article 5 of the Customs Convention or Annex B.1 of the Istanbul Convention.

For additional information regarding the above-mentioned International Conventions see Appendix 1.

Item 27 – Samples of negligible value

Samples, as prescribed by by-law

Duty Rate: Free
GST: Free
Instrument: Yes, by-law

Reference Number: 9999.30.27/11
GST Exemption Code: 427
By-law Number: 1305014

Application

Item 27 provides a duty rate of Free for eligible goods.

Goods entered under item 27 are exempt from the GST.

Administration

Item 27 is administered through reference number 9999.30.27/11. When used, this reference number requires the by-law to be quoted on the import declaration. Users of the item must comply with the terms of the item and the by-law.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 27 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 27 applies to samples, as prescribed by by-law. Item 27 has one by-law.

By-law No. 1305014 prescribes samples subject to the conditions listed in the by-law.

The samples prescribed include:

- (a) Goods of such dimension that are useless except for the purposes of demonstration;
- (b) Goods that are rendered useless by acceptable forms of mutilation;
- (c) Accessories or ornaments for clothing;
- (d) Non-consumable goods without mutilation with a value not exceeding AUD\$2.00;
- (e) Consumable goods which are destroyed on eating or drinking, testing or analysis;
- (f) Goods (excluding excise equivalent goods) for distribution free of charge at an event approved by the Collector in accordance with Article 5 subparagraph 1(a) of Annex B.1 of the Convention on Temporary Admission (known as the Istanbul Convention);
- (g) Goods solely of overseas origin put up in sample books.

Additional conditions apply to the entry of the above prescribed goods. Refer to the



by-law for full information.

For additional information regarding the above-mentioned International Conventions see Appendix 1.

Goods for persons with disabilities

Item 28 – Various aids and appliances for persons with disabilities

Aids and appliances, as prescribed by by-law, for persons with disabilities

Duty Rate: Free

GST: Payable

Instrument: Yes, by-law

Other: By Determination

Treatment Code: 728

GST Exemption Code: N/A

By-law Number: 1300551

Application

Item 28 provides a duty rate of Free for eligible goods.

Goods entered under item 28 are subject to the GST.

Administration

Item 28 is administered through treatment code 728 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Individual importers wishing to import other aids or appliances for persons with a disability that are not mentioned in the terms of the by-law may be eligible to apply for a Determination to import their goods.

Entry requirements for item 28 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 off the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 28 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 28 applies to aids and appliances for people with disabilities. The item is administered through By-law No. 1300551.

By-law No. 1300551 prescribes:

- (a) Pedestrian safety equipment for the blind, being Braille tiles and Braille road rivets;
- (b) Reading machines, capable of converting printed matter into tactile images and speech;
- (c) Reading systems, capable of scanning printed matter and reproducing the enlarged text on the screen;
- (d) Sound reproducers and sounds recorders, having an output rms of less than 2.5 Watts, using a magnetic tape as the recording medium, monophonic, DC or

AC/DC operated, designed for carrying, with colour coded, raised symbol control speeds and dual playing speeds.

Individuals seeking to import aids and appliances for persons with disabilities that are not prescribed by By-law No. 1300551 may apply to the Schedule 4 Review Officer for a Determination. The application must contain the following:

Determination Criteria

- A full description of the goods;
- The purpose of the importation;
- The quantity of the goods to be imported;
- The date range in which the importation will occur;
- The proposed tariff classification of the goods;
- Customs value of the importation; and
- Appropriate medical evidence; such as statements from the applicant and their Medical Practitioner/Hospital

Determinations may be granted if the goods are:

- For individuals and are products for their own personal use imported in non-commercial quantities. A determination may be granted for a single importation or for more than one importation over a period of time where the Collector is satisfied that the goods are only for the personal use of the individual and not for commercial purposes.
- Consigned to organisations providing specialised services to the disabled which are ineligible for concessional entry under item 29 of Schedule 4 of the Customs Tariff and are not for commercial purposes.

A determination will not be granted for goods imported by commercial business enterprises.

A by-law/determination will not be provided or will be revoked, where it is established that an Australian industry (as defined for the Tariff Concession System) produces substitutable goods and can substantially meet the market requirements for the product.

Other Information

Some goods under this item may be eligible for a GST exemption. Subsection 38-45(1) in conjunction with paragraph 13-10(b) of the GST Act provides a GST exemption for certain medical aids and appliances. Information can be found at:

[http://www.border.gov.au/Busi/Duty/Indi/Brokers/GST-Exemptions-\(non-taxable-importations\)](http://www.border.gov.au/Busi/Duty/Indi/Brokers/GST-Exemptions-(non-taxable-importations)) and the GST Exemption codes found at [Documentary Import Declaration Guide](#) and further information can be obtained through ATO website.

Item 29 – Goods for persons with disabilities

Goods, as prescribed by by-law, that are:

- (a) Goods for persons with disabilities; and
- (b) Goods to which Annex E to the Educational, Scientific and Cultural Materials Agreement, or Annex E to the Educational, Scientific and Cultural Materials Protocol, applies

Duty Rate: Free
GST: Payable*
Instrument: Yes, by-law

Treatment Code: 729
GST Exemption Code: N/A
By-law Number: 1301116

Application

Item 29 provides a duty rate of Free for eligible goods.

* Goods entered under item 29 are subject to the GST (refer to Other Information below).

Administration

Item 29 is administered through treatment code 729 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 29 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 29 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 29 applies to goods for persons with disabilities to which Annex E to the Educational, Scientific and Cultural Materials Agreement or Annex E to the Protocol (the Nairobi Protocol) to that Agreement applies (see Appendix 1). The item is administered through By-law No. 1301116.

By-law No. 1301116 prescribes goods that are specially designed for the employment or the educational, scientific, social or cultural advancement of persons with disabilities. The goods are to be imported by an organisation concerned with the welfare, education or provision of assistance to persons with disabilities.

Eligible organisations are set out in *Australian Charities and Not-for-profit Commission Act 2012*; or may be approved by the Minister for Industry, Innovation and Science in consultation with the Minister for Health. These do not include an organisation that is carried on for the purposes of profit or gain.

The by-law also defines goods designed for people with disabilities where:

- (a) The adaptation for the disability causes those goods not to be used or not able to be used by people without disabilities; or
- (b) The cost to convert the goods for use by people without disabilities would be prohibitive.

For the purposes of this by-law, “persons with disabilities” means persons defined in the *Disability Services Act 1986*.

Other Information

Some goods under this item may be eligible for a GST exemption. Subsection 38-45(1) in conjunction with paragraph 13-10(b) of the GST Act provides a GST exemption for certain medical aids and appliances. Information can be found at: [http://www.border.gov.au/Busi/Duty/Indi/Brokers/GST-Exemptions-\(non-taxable-importations\)](http://www.border.gov.au/Busi/Duty/Indi/Brokers/GST-Exemptions-(non-taxable-importations)) and the GST Exemption codes found at Documentary Import Declaration Guide. Further information can be obtained through ATO website.

Item 30 – Parts for invalid carriages

Components or materials for use in the manufacture or repair of invalid carriages

Duty Rate: Free
GST: Payable
Instrument: None

Treatment Code: 730
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 30 provides a duty rate of Free for eligible goods.

Goods entered under item 30 are subject to the GST.

Administration

Item 30 is administered through treatment code 730. Users of the treatment code must comply with the terms of the item.

Entry requirements for item 30 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 30 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 30 applies to components or materials for use in the manufacture or repair of invalid carriages.

Subheading 8714.20.00 provides duty rate of Free for parts and accessories that are uniquely identified as being parts or accessories for invalid carriages. However, Section XVII Note 2 that applies to heading 8714 excludes a range of parts from classification in this heading. These include, but are not limited to articles of rubber, electric motors and parts of general use such as nuts and bolts. Such goods must be classified to their applicable tariff headings and subheadings when imported separately.

In these cases item 30 may be used to obtain a duty rate of Free. Goods entered under item 30 must be for use in the manufacture or repair of invalid carriages, including motorised carriages.

The term “invalid carriages” in item 30 applies to carriages, whether or not mechanically propelled, for persons with disabilities, injuries etc. This includes manual wheelchairs that are either self-propelled or attendant-propelled. It also includes a range of carriages that are mechanically propelled, usually by an electric motor. Such invalid carriages may be for both indoor and outdoor use. This does not include vehicles such as golf carts, scooters etc. or general household, institutional or office furniture that has wheels or castors.

Goods that are textiles, clothing or footwear

Item 31 – SPARTECA TCF Scheme

Goods that are Qualifying Goods, as defined in the terms and conditions of the SPARTECA (TCF Provisions) Scheme, entered for home consumption on or before 31 December 2014

Duty Rate: Free

GST: Payable

Instrument: No

Other: Preference Scheme Code: FI; Preference Rule: TCF;
Excess Local Area Content (ELAC) ID required

Treatment Code: 468

GST Exemption Code: N/A

Instrument Number: N/A

Application

Item 31 provides a duty rate of Free for eligible goods.

Goods entered under item 31 are subject to the GST.

Administration

Item 31 gives effect to the South Pacific Regional Trade and Economic Co-operation Agreement (Textile, Clothing and Footwear Provisions) Scheme (the SPARTECA (TCF Provisions) Scheme).

The item is administered through treatment code 468. Users of the item must comply with the terms of the item. Further, an Excess Local Area Content (ELAC) ID must be supplied in the ELAC number field on the Additional Tariff Line information screen. The ELAC ID will be specified in the SPARTECA (TCF Provisions) Scheme declaration provided by the Registered Manufacturer. Importers must also quote the Preference Scheme “FI” and Preference Rule “TCF”.

Entry requirements for item 31 require goods to be entered under the tariff classification and statistical code set out in Schedule 3 to the Customs Tariff before claiming the concessional item. Note that such tariff classifications must be listed in the “Terms and Conditions” of the SPARTECA (TCF Provisions) Scheme, which can be found at: <http://www.industry.gov.au/industry/IndustrySectors/TextilesClothingandFootwear/Documents/S-TCFTermsandConditions.docx>

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 31 in accordance with subsection 18(1) of the Customs Tariff.

The SPARTECA (TCF Provisions) Scheme is administered by the Department of Industry, Innovation and Science with the assistance of the Department.

As the Program Administrator for the Scheme, the Department of Industry, Innovation and Science is responsible for administering, auditing and reporting on the performance of the SPARTECA (TCF Provisions) Scheme against its stated objectives. the Department assists Department of Industry, Innovation and Science by ensuring goods imported under item 31 comply with import entry requirements. Information about

entering the goods under the SPARTECA (TCF Provisions) Scheme can be found at:
<http://www.border.gov.au/Busi/Free/Foru>

Eligibility and Background

The SPARTECA (TCF Provisions) Scheme was originally introduced in 2001 and given effect through item 68. The SPARTECA (TCF Provisions) Scheme has been extended to 31 December 2014.

SPARTECA is a non-reciprocal trade agreement between Australia, New Zealand and Forum Island Countries (FICs). One of the objectives of the agreement is to achieve, in favour of FICs, duty free and unrestricted access to the markets of Australia and New Zealand for as wide a range of products as possible.

The SPARTECA (TCF Provisions) Scheme allows certain TCF goods that are manufactured in FICs, but do not meet all the provisions of SPARTECA, to enter duty free in certain circumstances through item 31. To qualify for entry under item 31, specific conditions set out in the SPARTECA (TCF Provisions) Scheme “Terms and Conditions” (see link in **Administration** above) must be met. For example, only “Qualifying Goods” sourced from a “Registered Manufacturer” in accordance with the Terms and Conditions of the SPARTECA (TCF Provisions) Scheme can be entered under item 31.

Item 32 – Textiles, clothing and footwear

Textiles, clothing and footwear, as prescribed by by-law

Duty Rate: Free

GST: Payable

Instrument: Yes, by-laws

Treatment Code: 732

GST Exemption Code: N/A

By-law Numbers: 1303567, 1303574, 1303578, 1303584, 1303592, 1303598, 1303602, 1303608, 1303612, 1303616, 1303621, 1303625, 1303862, 1303865, 1303866, 1303867, 1303868, 1303869

Application

Item 32 provides a duty rate of Free for eligible goods.

Goods entered under item 32 are subject to the GST.

Administration

Item 32 is administered through treatment code 732 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration.

Entry requirements for item 32 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 32 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 32 applies to textiles, clothing and footwear as prescribed by by-law. This concession forms part of industry assistance arrangements for Australia's textile, clothing and footwear sectors.

There are 18 by-laws written to this item. The new by-laws prescribe various textiles, clothing and footwear. Compliance with the wording of the by-law including any conditions is required.

The by-laws generally cover inputs to manufacture, production or processing of textile, clothing or footwear products in Australia, and in most cases have end-use requirements.

New By-law	Description
1303567	Prescribes fusible interlining fabrics classified under headings 5407, 5408, 5512, 5513, 5514, 5515, or 5516 in Schedule 3. The prescribed goods are subject to the following conditions: (a) the man-made fibre content of the fabrics must not exceed 50%

	<p>by weight of polypropylene or polyethylene or polypropylene and polyethylene; and</p> <p>(b) the fabrics must be used as shoulder or chest padding in the manufacture of coats or formal evening wear shirts.</p>
1303574	Prescribes fabric for the manufacture or repair of hot air balloon envelopes, parachute canopies or sails classified under headings 5407, 5408, 5512, 5513, 5514, 5515, 5516 or 5903 in Schedule 3.
1303578	Prescribes fabrics classified under headings 5407, 5408, 5512, 5513, 5514, 5515 or 5516 in Schedule 3, that are for cutting up for the manufacture of hemmed or hemstitched table linen.
1303584	<p>Prescribes fabrics, classified under headings 5407, 5408, 5512, 5513, 5514, 5515 or 5516 in Schedule 3.</p> <p>The fabrics are to contain less than 20% by weight of wool and be multi-coloured woven, printed or imported in lengths not exceeding 76cm. The fabric must also be used in the manufacture of cummerbunds, neck ties or sets consisting of a neck tie and a decorative pocket handkerchief made from the same fabric. For the purposes of the by-law “used” does not include use as an interlining.</p>
1303592	<p>Prescribes fabrics classified under headings 5903 or 5907 in Schedule 3 that is specially prepared or coated for use in the manufacture of emery cloth.</p> <p>“Emery cloth” means fabric coated with abrasive substances that are aluminium oxide, garnet, natural emery or silicon carbide.</p>
1303598	<p>Prescribes fabrics classified under headings 5007, 5208, 5210, 5212, 5407, 5408, 5512, 5513, 5515 or 5516 in Schedule 3.</p> <p>The prescribed goods are subject to the following conditions:</p> <ul style="list-style-type: none"> (a) the fabrics must weigh less than 125 grams per square metre; (b) the fabrics must be imported for the purpose of impregnating, coating, covering or laminating the fabrics with plastic with a permanent plastic addition of 30 grams per square metre or more by the importer who entered the goods for home consumption; and (c) when the fabric is coated, it must be sold in that form or made up into finished products, other than curtains, by the importer.

1303602	<p>Prescribes fabrics classified under headings 5210, 5211 or subheading 5212.2 in Schedule 3.</p> <p>The fabric is subject to the following conditions:</p> <ul style="list-style-type: none"> (a) the value must not exceed \$2.67 per square metre; (b) the weight of the fabric must not exceed 510 grams per square metre; and (c) the fabric must be for use in the manufacture of surgical or adhesive plaster. <p>There are additional specifications to which the fabric is subject, dependent on the fabric's weight and classification.</p>
1303608	<p>Prescribes handkerchiefs classified under heading 6213 in Schedule 3. The handkerchiefs are to be imported in packs containing 60 or more handkerchiefs of one design and/or colour and are not to be put up for retail sale.</p>
1303612	<p>Prescribes fabric classified under headings 5407, 5408, 5512, 5513, 5514, 5515, or 5516 in Schedule 3 for the manufacture of brassieres, corsets, torsolettes, corselettes or pantie girdles. This does not include elastomeric fabrics weighing 510gms per square metre or less. There are additional specifications to which the fabric is subject, dependent on the fabric's weight and classification.</p>
1303616	<p>Prescribes synthetic fur fabric classified under subheading 6001.10.00 in Schedule 3. The prescribed fabric must weigh 700 grams per square metre or more and be used in the manufacture of plush toys.</p>
1303621	<p>Prescribes fabrics classified under headings 5407 or 5408 in Schedule 3.</p> <p>The fabric is to be used for the manufacture of surgical or adhesive plaster.</p> <p>For the purposes of this by-law "fabrics" do not include elastomeric fabrics weighing 510 grams per square metre or less.</p>
1303625	<p>Prescribes fusible interlining fabrics classified under headings 5210, 5211, 5212, 5903, 6002, 6003, 6004, 6005 or 6006.</p> <p>The fabric is to be for use as shoulder or chest padding in the manufacture of coats or formal evening wear shirts.</p>
1303862	<p>Prescribes fabrics classified under headings 5007, 5111, 5112, 5208, 5210, 5212, 5407, 5408, 5512, 5513, 5515 or 5516 in Schedule 3.</p> <p>The fabric must weigh less than 125 grams per square metre and be for use in one of the following circumstances:</p> <ul style="list-style-type: none"> (a) be for use in a clothing factory in the manufacture of bias binding or piping or be for use in a clothing factory in the manufacture of goods which would be classified in Chapter 62 in Schedule 3; or (b) be for use in the manufacture of headwear which, if imported, would be classified under 6505.00.90 in Schedule 3; or (c) if the fabric has a width of less than 115 cm, be for any use

	other than a manufacturing purpose.
1303865	<p>Prescribes fabrics, classified under headings 5208, 5210 or subheading 5212.1 in Schedule 3. The fabric must contain less than 20% by weight of man-made fibres and contain less than 20% by weight of wool.</p> <p>The prescribed goods are not to be used in the making up of bed linen.</p>
1303866	<p>Prescribes fabrics, classified under headings 5208, 5210 or subheading 5212.2.</p> <p>The fabrics must contain less than 20% by weight of man-made fibres and contain less than 20% by weight of wool. The fabrics must have a raised nap on one or both sides and when tested on an Instron Tensile Testing Machine or similar apparatus, the fabrics must meet the specifications stated in the by-law.</p>
1303867	<p>Prescribes polyamide fabrics coated, covered, impregnated or laminated with artificial plastic materials. The fabric must be used in the manufacture of rainwear, parkas or ski jackets.</p>
1303868	<p>Prescribes fabrics classified under heading 5903 in Schedule 3. The fabric must be for use as fusing lining in the manufacture of collars or cuffs for shirts or blouses.</p>
1303869	<p>Prescribes tufted carpets and other textile floor coverings classified under heading 5703 in Schedule 3. The carpets and other textile floor coverings must be made by non-powered tufting machines held in the hand.</p>

Item 33 – Orthopaedic textile goods

Goods which, apart from paragraph (b) of Note 1 to Chapter 90 of Schedule 3 (about supporting belts or other support articles of textile material), would be classified under that Chapter.

Duty Rate: Free
GST: Payable
Instrument: No

Treatment Code: 733
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 33 provides duty rate of Free for eligible orthopaedic textile articles.

Goods entered under item 33 are subject to the GST.

Administration

Item 33 is administered through treatment code 733. Users of the item must comply with the terms of the item.

Entry requirements for item 33 call for eligible goods to be entered under the tariff classification and statistical code set out in the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 33 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 33 applies to certain orthopaedic goods of textile material that are excluded from Chapter 90 by the operation of Sub-note 1(b). These goods are classified in Section XI Chapters 50 to 63.

Chapter 90 Notes.

1. This Chapter does not cover:

- (b) Supporting belts or other support articles of textile material, whose intended effect on the organ to be supported or held derives solely from their elasticity (for example, maternity belts, thoracic support bandages, abdominal support bandages, supports for joints or muscles) (Section XI);

Other Matters

Mastectomy bras and swimwear are not covered by item 33.

Tariff Precedent No. 201000800 - Compression Hosiery Eligible to use item 33 has been prepared to give guidance on the forms of compression hosiery that are acceptable as medical hosiery. This precedent is available at [Tariff Public Advice Products](#) on the Department website.

Goods relating to transport

Item 34 – Aircraft parts, materials and test equipment

Aircraft parts, materials or test equipment for use in the manufacture, repair, maintenance or modification of aircraft, except the following:

- (a) Textiles and goods made from textiles;
- (b) Goods for use in the servicing of aircraft

Duty Rate: Free
GST: Payable
Instrument: No

Treatment Code: 734
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 34 provides a duty rate of Free for eligible goods.

Goods entered under item 34 are subject to the GST.

Administration

Item 34 is administered through treatment code 734. Users of the item must comply with the terms of the item.

Entry requirements for item 34 call for the goods to be entered under the tariff classification and statistical code out in Schedule 3 to the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 34 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

The concession was introduced to develop and maintain the international competitiveness of Australia's aerospace industry through the duty free access to specialised parts, items of equipment and materials for use in the manufacture, repair or maintenance of aircraft. It covers goods for which there were no equivalents in Australia. The concession was designed to allow Australian manufacturers to be competitive with overseas manufacturers through reducing the manufacturing costs associated with this industry.

Item 34 applies to materials and test equipment for use in the manufacture and repair of aircraft.

To qualify as eligible goods under item 34, goods must be:

- (a) Aircraft parts, materials or test equipment; and
- (b) For use in the manufacture, repair, maintenance, or modification of aircraft.

The item specifically excludes goods of textile materials, and goods for use in servicing aircraft.

To qualify as aircraft parts and materials the goods must form integral elements of an aircraft (materials are the elements, substance or substances from which an aircraft is made or composed). Further, the parts and materials must be consumed into the whole of the aircraft during the act of manufacture, repair or maintenance.

Test equipment only covers those instruments, apparatus or equipment used to test the aircraft or components of the aircraft during the act of manufacture, repair, maintenance or modification.

Examples of goods that do not qualify for the item 34 concession include, but are not limited to:

- Carpets and seat coverings;
- Consumables, such as oil, fuel, food, beverages and the like, used in the servicing of aircraft;
- Items of cutlery, plates, bowls etc., of any material;
- Tools (including specialist hand tools), stands, tow bars, hoists and jacks;
- Portable fire extinguishers;
- Headsets (including aviator headsets), lifejackets and life rafts;
- Aircraft navigation aids and refuelling equipment.

It is not a consideration when interpreting the terms of item 34 that the Civil Aviation Safety Authority, under its Regulations, may require the inclusion of certain pieces of equipment mandatory for the operation of an aircraft.

Item 35 – Vessel parts and materials

Parts of vessels, or materials, for use in the construction, modification or repair of vessels exceeding 150 gross construction tons as defined by by-law

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 735
GST Exemption Code: N/A
By-law Number: 1305755

Application

Item 35 provides a duty rate of Free for eligible goods.

Goods entered under item 35 are subject to the GST.

Administration

Item 35 is administered through treatment code 735 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 35 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 to the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 35 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 35 applies to parts and materials for use in the construction, modification or repair of vessels exceeding 150 gross construction tons. There is one by-law written to this item.

By-law No. 1305755 therefore provides the formula for calculating the gross construction tonnage of a vessel.

To be eligible for the item 35 concession, goods must meet three criteria, as follows:

- (a) That the goods are parts of vessels and/or materials for use in vessels;
- (b) That the goods are intended for use solely in the construction, modification and repair of vessels; and
- (c) That the vessel involved exceeds 150 gross construction tons.

Part of a vessel

For the purposes of item 35, a part of a vessel exceeding 150 gross construction tons is something, which, with others may make up a whole of such a vessel. It could also be an article, a subsystem or functioning unit of such a vessel including a ship's hull, equipment or machinery, or a part thereof. A part need not be subsumed into the vessel, or be permanently fixed to it. However, if it is not subsumed into the vessel or

permanently fixed to it, it would have to be intended by its design or manufacture to be used in the operation of such a vessel.

Equipment might be a part of a vessel if it is not a consumable and:

- (a) It has been included in the design specifications of the vessel; and/or
- (b) It is equipment of a kind supplied at fit out prior to first sailing of the vessel; and/or
- (c) It is equipment of a kind that Regulatory controls require to be on board the vessel at the time of sailing.

Importers, claiming that the goods to be imported are parts for a vessel must be able to establish, at import, that the parts are equipment or a part of equipment for a vessel greater than 150 gross construction tons. The characteristic could be that it has been especially adapted for the vessel or is a component for a machine identified in the vessels specifications. For example, a part for a crane is just a part for a crane and is unable to claim item 35, unless that crane is a part of cargo handling equipment that has been built into or is a functioning component or part of the vessel.

To be a part of a vessel the equipment must normally be something that has a permanent or semi-permanent nature, and is not being constantly withdrawn or replaced. For example, anchors, cables, hawsers, mooring ropes, sails etc. may be said to be part of a ship's equipment, albeit that they may have to be renewed from time to time.

Materials

The word, "materials" normally means the substance or substances of which a thing is made or composed, or anything serving as crude or raw matter for working upon or developing a thing. Within the context of item 35, "materials" means the raw materials, of which a vessel of greater than 150 gross construction tons is made or composed.

Materials may be used directly by the shipbuilder in respect of goods that are:

- (a) Actually incorporated in the vessel or in the modification of the vessel, as the case requires; or
- (b) Consumed in the construction or modification of the vessel, as the case requires.

Construction of Vessels

For the purposes of item 35 "construction of vessels" means the building of vessels by assembling and combining parts usually resulting in the surveying of the vessel.

Modification of Vessels

For the purposes of item 35 "modification of vessels" means the act of modifying, the state of being modified, partial alteration, a change in form, an enhancement, refurbishment, upgrade, alteration or repair.

Modification, in relation to a vessel, includes changing the structure or specification of the vessel to alter its capacity or capability, but does not include any changing of that structure or specification before the construction of the vessel has been completed. It also includes an alteration of the form or qualities of vessels. A modification or alteration of a vessel would normally be of a long-term nature, and require the vessel to be re-surveyed.

Repair of Vessels

For the purposes of item 35 "repair of vessels" means the renewing, modification or conversion, painting, installation and replacement of parts and components, overhaul, defect rectification, restoring to sound condition, mending and strengthening of vessels.

Calculation of gross construction tons

Item 35 applies to goods for use in the construction, modification or repair of vessels exceeding 150 gross construction tons. In brief, for a vessel, gross construction tons is defined as the total volume, in cubic metres, of all enclosed spaces of a ship, divided by 2.83.

Consumables

The goods entered under this concession item must be "non-consumables". The concession does not apply to consumable goods such as:

- Ships Stores being stores for the use of all the passengers or crew of a ship, or for the service of a ship.
- Goods for the service of a vessel including oil, fuel, lubricants, food, beverages, plates, cutlery and the like.
- Tools (including specialist hand tools)
- Specified Goods (being vessels parts, components and materials) imported under the legislation provisions of the "*Tradex Scheme Act 1999*" by the holder of a Tradex Order (see item 21A).

Other matters

Item 35 may also apply to vessels parts, components and materials originally imported then subsequently sent overseas for repair, reconditioning, replacement or maintenance and then re-imported.

Item 36 – Vehicles of an age of 30 years or more

Vehicles aged 30 years or more that are:

- (a) Utilities or pick-ups, having a g.v.w. (within the meaning of Additional Note 7 to Chapter 87 of Schedule 3) not exceeding 3.5 tonnes, classified under subheading 8704.21.10 or 8704.31.10 of Schedule 3; or
- (b) Passenger motor vehicles

Duty Rate: Free
GST: Payable
Instrument: No

Treatment Code: 736
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 36 provides a duty rate of Free for eligible vehicles.

Vehicles entered under item 36 are subject to the GST.

Administration

Item 36 is administered through treatment code 736. Users of the item must comply with the terms of the item.

Entry requirements for item 36 call for the vehicles to be entered under the tariff classification and statistical code set out in Schedule 3 to Tariff Working Pages before claiming the concessional item. Note that tariff classifications are limited to the classifications specified above, that is subheadings: 8704.21.10 or 8704.31.10.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 36 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 36 applies to vehicles aged 30 years or more.

To be eligible for item 36, vehicles must be 30 years old or greater and meet the conditions specified in either paragraph (a) or (b) of the item.

Item 36 does not apply to parts for vehicles over 30 years old or greater.

Vehicles imported under item 36 must comply with all relevant Department of Infrastructure and Regional Development requirements information on importing vehicles may be obtained from the Department of Infrastructure and Regional Development or at the Department website – [Importing Vehicles](#).

Paragraph (a) of item 36 applies to utilities or pick-ups, having a g.v.w (gross vehicle weight) not exceeding 3.5 tonnes, and classified in subheadings 8704.21.10 or 8704.31.10.

Additional Note 7 to Chapter 87 provides that g.v.w. is the road weight specified by the manufacturer as being the maximum design weight capacity of the vehicle. This weight

is the combined weight of the vehicle, the maximum specified load, the driver and a tank full of petrol.

Paragraph (a) of the text of both subheadings 8704.21.10 and 8704.31.10 also requires that the vehicles must be assembled, that is, not in kit form.

Paragraph (b) of item 36 defines “passenger motor vehicles” as motor cars and other motor vehicles (including station wagons) designed for the carriage of 2 or more persons (including the driver), other than:

- (a) Ambulances;
- (b) Hearses;
- (c) Police vans;
- (d) Amphibious vehicles; or
- (e) Off-road vehicles.

Item 37 – Used or second-hand passenger motor vehicles

Used or second-hand passenger motor vehicles, as prescribed by by-law

Duty Rate: 5%

GST: Payable

Instrument: Yes, by-laws

Treatment Code: 737

GST Exemption Code: N/A

By-law Numbers: 1305091, 1306509

Application

Under Schedule 3 of the Customs Tariff, second-hand passenger motor vehicles are subject to a customs duty of 5% plus \$12,000 per vehicle.

Item 37 provides a duty rate of 5% for eligible goods and removes the \$12,000 additional duty provided that the importation of the vehicle has been approved in accordance with section 17A or section 20(1)(b) of the *Motor Vehicle Standards Act 1989*, by the Minister administering the *Motor Vehicle Standards Act 1989* or by an officer of the Department who is authorised in writing by the Minister to give approvals under that section. Such approvals are known as a Vehicle Import Approval or VIA.

Goods entered under item 37 are subject to GST.

Administration

Item 37 is administered through treatment code 737 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration.

Entry requirements for item 37 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 to the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 37 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 37 provides concessional treatment which exempts an importer from the additional duty of \$12,000 that is applied to second-hand road vehicles, provided a VIA has been issued.

By-law No. 1305091 prescribes used or second-hand passenger motor vehicles classified under heading 8703 of Schedule 3. Importations under this by-law must be approved under section 17A of the *Motor Vehicle Standards Act 1989*.

By-law No. 1306509 prescribes used or second-hand passenger motor vehicles classified under heading 8703 of Schedule 3. Importations under this by-law must be approved under section 20(1)(b) of the *Motor Vehicle Standards Act 1989*.

Approval to import a used or second hand passenger motor vehicle, in accordance with section 17A and 20(1)(b) of the *Motor Vehicle Standards Act 1989*, is obtained on application to the Department of Infrastructure and Regional Development. A Vehicle Import Approval (VIA) must be obtained before importation. Further information on



importing passenger motor vehicles may be obtained from the Department of Infrastructure and Regional Development or at the Department website – [Importing Vehicles](#).

Item 38 – Original equipment for the manufacture of vehicles over 3.5 tonnes

Goods, as prescribed by by-law, where:

- (a) The goods are vehicle components for use as original equipment in the assembly or manufacture of vehicles; and
- (b) The vehicles are of a kind which, if imported, would be classified under heading 8702, 8704 or 8705, or subheading 8701.20.00, 8701.90.20, 8703.22.20, 8703.23.20, 8703.24.20, 8703.31.20, 8703.32.20, 8703.33.20 or 8703.90.20, of Schedule 3.

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 738
GST Exemption Code: N/A
By-law Number: 1300584

Application

Item 38 provides a duty rate of Free for eligible goods.

Goods entered under item 38 are subject to the GST.

Administration

Item 38 is administered through treatment code 738 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 38 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 to Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 38 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 38 provides for the duty free entry of components for use as original equipment for the manufacture of vehicles over 3.5 tonnes. The item is administered through by-law 1300584.

By-law No. 1300584 prescribes vehicle components for use in the manufacture of certain vehicles over 3.5 tonnes g.v.w (gross vehicle weight).

The by-law prescribes vehicles components for use as original equipment in the manufacture or assembly of the cab/chassis or drivable chassis of motor vehicles which:

- (a) Have a gross vehicle weight greater than 3.5 tonnes; and
- (b) Are classified under a heading or subheading listed in Table 1.

The by-law also prescribes vehicle components for use as original equipment in the assembly of motor vehicles which:

- (a) Have a gross vehicle weight between 3.5 tonnes and 4 tonnes; and
- (b) Are classified under a heading or subheading listed in Table 2.

The by-law defines different original equipment for the purposes of the by-law and lists various exclusions to the by-law.

For the purposes of the by-law gross vehicle weight “g.v.w.” is the road weight specified by the manufacturer as being the maximum design weight capacity of the vehicle. This weight is combined weight of the vehicle, the maximum specified load, the driver and a tank of fuel.

Security Provisions

A security is to be lodged with National Temporary Imports and Securities (NTIS) of the Department for goods imported under this by-law to ensure compliance with the conditions. Securities are assessed on a case by case basis.

For further information and to apply to lodge a security for item 38 email ntis@border.gov.au with details of the importation, the item number and applicable by-law number.

Item 39 – Motor vehicle testing equipment

Goods, as prescribed by by-law, that are for use in the testing, quality control, manufacturing evaluation or engineering development of:

- (a) Motor vehicles manufactured by motor vehicle producers registered under the Automotive Transformation Scheme (within the meaning of the *Automotive Transformation Scheme Act 2009*) or original equipment components for inclusion in such motor vehicles; or
- (b) Motor vehicles designed or engineered, or in the process of being designed or engineered, in Australia by motor vehicle producers registered under the Automotive Transformation Scheme (within the meaning of the *Automotive Transformation Scheme Act 2009*) or components for inclusion in such motor vehicles

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 739
GST Exemption Code: N/A
By-law Number: 1301117

Application

Item 39 provides a duty rate of Free for eligible goods.

Goods entered under item 39 are subject to the GST.

Administration

Item 39 is administered through treatment code 739 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 39 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 to the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 39 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 39 covers goods for use in the testing, quality control, manufacturing, evaluation or engineering development of motor vehicles that are manufactured in Australia or that are being designed or engineered in Australia. There is one by-law written to this item.

By-law No. 1301117 prescribes vehicles and components of vehicles for use in the testing, quality control, manufacturing evaluation or engineering development of:

- (a) Motor vehicles manufactured by producers registered under the Automotive Transformation Scheme (within the meaning of the *Automotive Transformation Scheme Act 2009*); or

(b) Original equipment components for inclusion in such motor vehicles.

Goods imported under this by-law are to be exported, destroyed, or, disposed of in a manner approved in writing by the Collector, within a period of 12 months from the date of entry for home consumption, or within such further period as the Collector may allow.

Security Provisions

A security is to be lodged with National Temporary Imports and Securities (NTIS) area of the Department for goods imported under this by-law to ensure compliance with the conditions. Securities are assessed on a case by case basis.

For further information and to apply to lodge a security for item 39 goods email ntis@border.gov.au with details of the importation, the item number and applicable by-law number.

Item 40 – Aluminised steel for use in the manufacture of muffler exhaust systems

Aluminised steel classified under subheading 7210.61.00, 7210.69.00 or 7212.50.00 of Schedule 3 and for use in the manufacture of automotive muffler exhaust systems or components

Duty Rate: Free
GST: Payable
Instrument: No

Treatment Code: 740
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 40 provides a duty rate of Free for eligible goods.

Goods entered under item 40 are subject to the GST.

Administration

Item 40 is administered through treatment code 740. Users of the item must comply with the terms of the item.

Entry requirements for item 40 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item. As noted, the tariff classification must be one of the subheadings 7210.61.00, 7210.69.00 or 7212.50.00.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 40 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 40 provides for the duty free entry of aluminised steel for use in the manufacture of muffler exhaust systems.

To be eligible for the item 40 concession the goods must be:

- (a) Aluminised steel; and
- (b) Classified in one of three subheadings 7210.61.00, 7210.69.00 or 7212.50.00 of the Customs Tariff; and
- (c) For use in the manufacture of automotive muffler exhaust systems or components.

Item 41 – Goods for use in space projects

Goods, as prescribed by by-law, that are for use in a space project authorised by the Minister administering the *Space Activities Act 1998*

Duty Rate: Free
GST: Payable
Instrument: No
Other: Determination

Treatment Code: 741
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 41 provides a duty rate of Free for eligible goods.

Goods entered under item 41 are subject to the GST.

Administration

Item 41 is administered through treatment code 741 that must be quoted on import declarations. When used, this treatment code requires a Determination number to be quoted on the import declaration.

Entry requirements for item 41 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 41 in accordance with subsection 18(1) of the Customs Tariff.

This item is administered by AusIndustry through the issuing of determinations. For detailed guidelines on eligibility requirements and the application process please refer to: <http://www.business.gov.au/grants-and-assistance/import-export/space-concession/Pages/default.aspx>

Eligibility and Background

Item 41 applies to goods for use in space projects. Determinations will be issued for eligible projects as follows:

- An applicant must seek authorisation of the space project from the Minister for Industry, Innovation and Science if the project has not already been authorised; and
- An applicant will need to seek authorisation that the goods intended to be imported are for use in an authorised space project.

Goods that are robots or prototypes

Item 42 – Robots

Robots, as prescribed by by-law, or parts or accessories that are suitable for use solely or principally with such robots.

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 742
GST Exemption Code: N/A
Instrument Number: 1305752

Application

Item 42 provides a duty rate of Free for eligible goods.

Goods entered under item 42 are subject to the GST.

Administration

Item 42 is administered through treatment code 742 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 42 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 42 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 42 covers robots and parts or accessories that are suitable for use solely or principally with such robots. There is one by-law written to this item.

By-law No. 1305752 prescribes industrial robots as being goods defined in clause 2.9 of International Standard ISO 8373:2012. This standard replaces ISO 8373:1994. The new ISO 8373:2012 contains definitions that differentiate between industrial robots and industrial robot systems, industrial robot cells and industrial robot lines.

By-law No. 1305752 does not apply to industrial robot systems, industrial robot lines or industrial robot cells as defined in the new standard. Item 42 also applies to parts or accessories that are suitable for use solely and principally with industrial robots. An accessory for an industrial robot is a piece of equipment that if imported with the industrial robot would facilitate the operation of the robot but would not change its character to an industrial robot system, cell or line. Examples of accessories covered by item 42 are teach pendants and numerical controllers.

Examples of goods that are not covered by item 42 include tool changers or quick change devices, tool spacers, tool dust covers, tool teaching aids and tool stands.

Item 43 – Goods for use as prototypes

Goods, as prescribed by by-law, that are for use as prototypes

Duty Rate: Free

GST: Payable

By-law/s: N/A

Other: Determination

Treatment Code: 743

GST Exemption Code: N/A

By-law number/s: N/A

Old By-law No. 9640062 has been replaced by a Determination process. The same criteria apply to this item. This has been included below in the '*Eligibility and Background Information*' section.

Application

Item 43 provides a rate of duty of Free for eligible goods.

Goods entered under item 43 are subject to the GST.

Administration

Item 43 is administered through treatment code 743 and by determination. The conditions under which a determination is made are provided below. Users of the item must comply with the terms of the item and the terms of the determination.

Item 43 requires goods to be entered under the tariff classification and statistical key set out in Schedule 3 to the Customs Tariff before claiming the concessional item.

Goods that attract a rate of duty of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 43 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

This concession covers prototypes for use in connection with the manufacture of similar goods in Australia.

New item 43 replaces previous item 29, goods for use as prototypes. Previous By-law No. 9640062 has not been replaced with a new by-law, instead importers seeking to import goods under this item must apply to Immigration and Border Protection for a Determination.

Determination

Determinations made under item 43 will require that goods fulfil the same criteria as previous By-law No. 9640062. The importation of goods under this item requires a security to be lodged to ensure compliance with the conditions (*See below*).

Determination Criteria

Determinations under this item will be issued where the importer can demonstrate that the prototypes are to be:

- 1) Used solely by the importer as prototypes in connection with the manufacture of similar goods in Australia within one (1) year of the date of importation of the prototype goods, or such further time as the Collector may allow.
- 2) Only one prototype (1) of each style or model is to be imported in a twelve (12) month period.
- 3) the prototypes are not, without the consent of the Collector in writing, to be sold or otherwise disposed of; and are not to be used:
 - (i) for demonstration purposes;
 - (ii) for market evaluation; or
 - (iii) for their normal commercial use.

Compliance is demonstrated where:

- (a) the importer has produced goods for sale similar to the “prototype” goods or made firm arrangements for the sourcing of components for the production of goods similar to the “prototype” goods; or
- (b) where the importer has decided not to produce similar goods to the “prototype” goods, the imported goods have been so dismantled, damaged or otherwise affected by their use as prototypes, that the Collector is satisfied that the goods are no longer capable of being sold and used for the purpose for which they were designed.

Importers seeking to use the item 29 concession must apply to Immigration and Border Protection for a determination. The application must contain the following:

- a full description of the goods;
- the quantity of the goods to be imported;
- the date range in which the importation will occur;
- the proposed tariff classification of the goods;
- the value of the importation;
- the purpose of the importation; and
- a statement of explanation as to how the importation meets the criteria provided above.

Security Provisions

A security is to be lodged with National Temporary Imports and Securities (NTIS) of the Department of Immigration and Border Protection for goods imported under this by-law to ensure compliance with the conditions. Securities are assessed on a case by case basis.

For further information and to apply to lodge a security for item 43 email ntis@border.gov.au with details of the importation and the item number.

Goods relating to manufacturing

Item 44 – Capital equipment for major projects – Enhanced Project By-law Scheme

Goods, including machinery, equipment, or their components, as prescribed by by-law, that are for use in any of the following industries:

- (a) mining;
- (b) resource processing;
- (c) agriculture;
- (d) food processing;
- (e) food packaging;
- (f) manufacturing (within the meaning of the *Australian and New Zealand Standard Industrial Classification (ANZSIC)*);
- (g) gas supply;
- (h) power supply;
- (i) water supply

Duty Rate: Free

GST: Payable

Instrument: Yes, AusIndustry Determination

Other: PIN also required

Treatment Code: 471, 744

GST Exemption Code: N/A

Instrument Number: N/A

Administration

Item 44 replaces item 71 in respect of goods entered for home consumption after 1 March 2013. These items are administered through treatment code 471 (item 71) and 744 (item 44).

AusIndustry Determinations made under previous item 71 before 1 March 2013 continue in force for goods entered for home consumption on or after that date as if they were item 44 AusIndustry Determinations. Any new AusIndustry Determinations made under item 71 after 1 March 2013 are for goods entered for home consumption before that date. Whether item 71 AusIndustry Determinations are made before or after 1 March 2013, importers should quote treatment code 471 on import declarations as well as the relevant AusIndustry Determination (and associated PIN) and relevant tariff classification (and associated statistical key).

Users of item 71 AusIndustry Determinations will need to ensure that their goods comply with the terms of the tariff classification, the terms of item 71 (for goods entered for home consumption before 1 March 2013) or item 44 (for goods entered for home consumption on or after 1 March 2013) and the terms of the nominated AusIndustry Determination (including all conditions). Treatment code 471 will continue to operate until four years after all item 71 determinations have expired or have been revoked.

All item 44 determinations are made after 1 March 2013 for goods entered for home consumption on or after that date. Where an item 44 AusIndustry Determination has been granted, importers should quote treatment code 744 on import declarations as well

as the relevant AusIndustry Determination (and associated PIN) and relevant tariff classification (and associated statistical key). Users of item 44 will need to ensure that their goods comply with the terms of the tariff classification, the terms of the item and the terms of the nominated AusIndustry Determination (including all conditions).

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 44 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 44 continues to give effect to the Enhanced Project By-law Scheme (EPBS). The EPBS provides duty-free tariff concessions for eligible goods imported for use in major projects in the mining, resource processing, agriculture, food processing, food packaging, manufacturing, gas supply, water supply and power supply industries.

The EPBS is administered by the AusIndustry Division of the Department of Industry and Science. The Department of Industry, Innovation and Science also has policy responsibility for the EPBS.

Further information on the EPBS is available from the following website:

<http://www.business.gov.au/grants-and-assistance/import-export/epbs/Pages/default.aspx>

Goods relating to manufacturing

Item 45 – Split consignment goods

Goods, as prescribed by by-law, where:

- (a) The goods are original components of a completed machine or equipment to which a single tariff classification would apply under a heading or subheading in Chapter 84, 85, 86, 87, 89 or 90 of Schedule 3 if the completed machine or equipment were imported; and
- (b) All the components:
 - (i) Are ordered from a single overseas supplier; and
 - (ii) Are shipped to Australia by the same supplier; and
 - (iii) Were available for shipment to Australia at the one time; and
 - (iv) Arrive in Australia on two or more vessels or aircraft; and
- (c) Item 44 of this Schedule does not apply to the goods.

Duty Rate: Payable unless TCO applies
GST: Payable
Instrument: Yes, by-law

Treatment Codes: 745, 845
GST Exemption Code: N/A
By-law Number: 1301120

Application

Item 45 provides a rate of duty for goods at the rate that would apply to the goods if they were the completed machine or equipment of which they are components.

The same provision applies to goods to which preferential rates apply or which are covered by a Free Trade Agreement under Schedules 5 to 11. Goods entered under item 45 are subject to the GST.

Administration

Item 45 is administered through treatment codes 745 and 845. When used, the treatment code requires a by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the by-law.

Treatment code 745 applies to components of a completed machine or equipment to which a Tariff Concession Order (TCO) applies (see item 50). Users of this treatment code must enter goods under the tariff classification and statistical code requirements in Schedule 3. In addition, the import declaration is to show that the tariff classification in Schedule 3 that applies to the completed machine or equipment of which the goods are a component, as well as the tariff concession order that applies to the complete goods.

Treatment code 845 applies to other machinery not subject to a TCO. It requires the tariff classification and statistical code, of the particular component, set out in Schedule 3 of the Tariff Working Pages to be quoted (this may or may not be the same as the tariff classification of the complete machinery). Treatment code 845 also requires the tariff

classification of the complete goods to be quoted. The duty rate for the tariff classification of the complete goods would then be applied to the particular component.

Eligibility and Background

Item 45 provides for split consignment goods and applies to original components of machinery and equipment that would be classified in Chapters 84, 85, 86, 87, 89 or 90 of the Customs Tariff if the completed machine or equipment were imported. Item 45 is not available for goods covered by item 44 (the Enhanced Project By-law Scheme).

Concessional entry of goods under item 45 is only available for goods in situations where it is not practical for importers to transport the goods in one consignment due to size or sensitivity of parts or inadvertent delay in transport.

The goods must be available as an identifiable whole good at the place of manufacture or export and must have been ordered from and shipped to Australia by the same supplier. The concession does not apply to generic or notional entities such as complete plant, greenfield or civil engineering projects.

By-law No. 1301120 prescribes goods that are the original components of a completed machine or equipment to which a single tariff classification applies, where:

- (a) The goods were sent to Australia as a single consignment but were accidentally separated for shipment;
- (b) The goods are of a size, shape or weight that transport necessities demand separate shipment; or
- (c) The nature of the goods is such that transport necessities require separate modes of shipment for some components.

The by-law excludes the following goods from entry under item 45:

- (a) Replacement parts, components or spares used in modernizing or refurbishing existing machinery or equipment;
- (b) Initial spare parts, maintenance tools and the like that may be supplied as part of an original shipment do not constitute original components.

Item 46 – Raw materials – Certain Inputs to Manufacture program

Raw materials and intermediate goods, as prescribed by by-law, that:

- (a) Are classified under heading 5903, or within Chapter 28, 29, 32, 34, 35, 37, 38, 39 or 48, of Schedule 3; and
- (b) In the opinion of the Minister, have a substantial and demonstrable performance advantage, in the production of a specific end product, over substitutable goods produced in Australia.

Duty Rate: Free

GST: Payable

Instrument: Yes, AusIndustry Determination

Other: PIN also required

Treatment Code: 746

GST Exemption Code: N/A

Instrument Number: N/A

Application

Item 46 provides duty rate of Free for eligible goods.

Goods entered under item 46 are subject to the GST.

Administration

Item 46 is administered through treatment code 746, which must be quoted on import declarations. When used, this treatment code requires the relevant tariff classification and associated statistical code and an item 46 AusIndustry Determination (and associated PIN) to be quoted on the import declaration.

Users of the item will need to ensure their goods comply with the tariff classification, the terms of the item and the terms of the AusIndustry Determination. Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 46 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 46 gives effect to one of two concessions provided under the Certain Inputs to Manufacture (CIM) program. The CIM program provides for duty-free entry of certain inputs to manufacture that have a substantial and demonstrable performance advantage in producing a specific end product over substitutable goods produced in Australia.

The CIM program is administered by the AusIndustry Division of Department of Industry and Science. The Department of Industry, Innovation and Science also has policy responsibility for the CIM program. The goods covered by the CIM program are:

- (a) Item 46: raw materials and intermediate goods classified under heading 5903 or within Chapter 28, 29, 32, 34, 35, 37, 38, 39 or 48 of Schedule 3 of the Customs Tariff (broadly chemicals, plastics and paper); and
- (b) Item 47: metal materials and goods, classified within Chapters 72 to 82 of Schedule 3 of the Customs Tariff, used in the packaging of food.

Further information on the CIM program is available on the following website:

<http://www.business.gov.au/grants-and-assistance/manufacturing/cim/Pages/default.aspx>

Item 47 – Metal materials – Certain Inputs to Manufacture program

Metal materials and goods, as prescribed by by-law, that:

are classified within Chapters 72 to 82 of Schedule 3; and

in the opinion of the Minister, have a substantial and demonstrable performance advantage, in the packaging of food, over materials and goods currently available in Australia

Duty Rate: Free
GST: Payable
Instrument: Yes, AusIndustry Determination
Other: PIN also required

Treatment Code: 747
GST Exemption Code: N/A
Instrument Number: N/A

Application

Item 47 provides a duty rate of Free for eligible goods.

Goods entered under item 47 are subject to the GST.

Administration

Item 47 is administered through treatment code 747, which must be quoted on import declarations. When used, this treatment code requires the relevant tariff classification (and associated statistical code) and an item 47 AusIndustry Determination (and associated PIN) to be quoted on the import declaration.

Users of the item will need to ensure their goods comply with the tariff classification, the terms of the item and the terms of the AusIndustry Determination. Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 47 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 47 gives effect to one of two concessions provided under the Certain Inputs to Manufacture (CIM) program. The CIM program provides for duty-free entry of certain inputs to manufacture that have a substantial and demonstrable performance advantage in producing a specific end product over other goods produced in Australia.

The CIM program is administered by the AusIndustry Division of the Department of Industry and Science. The Department of Industry, Innovation and Science also has policy responsibility for the CIM program. The goods covered by the CIM program are:

- (c) Item 46: raw materials and intermediate goods classified under heading 5903 or within Chapter 28, 29, 32, 34, 35, 37, 38, 39 or 48 of Schedule 3 of the Customs Tariff (broadly chemicals, plastics and paper)
- (d) Item 47: metal materials and goods, classified within Chapters 72 to 82 of Schedule 3 of the Customs Tariff, used in the packaging of food.

Further information on the CIM program is available on the following website: <http://www.ausindustry.gov.au/programs/import-export/epbs/Pages/default.aspx>

Item 48 – Other inputs to manufacture including chemicals, plastics and paper

Goods, as prescribed by by-law, that are classified under heading 3814.00.00, 3908, 4801, 4802, 4810 or 4811, or subheading 2836.20.00, 2903.71.00, 2903.72.00, 2903.73.00, 2903.74.00, 2903.75.00, 2903.79.10, 2905.16.00, 2905.19.10, 2912.60.00, 2915.70.00, 2915.90.00, 3503.00.10, 3701.30.00, 3701.91.00, 3701.99.00, 3702.32.90, 3702.39.90, 3702.44.90, 3702.96.90, 3907.60.00, 3907.70.00 or 3907.9, of Schedule 3

Duty Rate: Free
GST: Payable
Instrument: Yes, by-laws

Treatment Code: 748
GST Exemption Code: N/A
By-law Numbers: 1303871, 1303873,
1303874, 1303876, 1303877, 1303878

Application

Item 48 provides a duty rate of Free for eligible goods.

Goods entered under item 48 are subject to the GST.

Administration

Item 48 is administered through treatment code 748 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration.

Entry requirements for item 48 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 48 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 48 provides a concession for the importation of chemicals, plastics and paper, where suitably equivalent goods are not reasonably available from local manufacture. Part of the Government's purpose for this item was to improve local industry capability.

New by-laws will not be considered for this item. Importers seeking duty-free entry for goods otherwise covered by the terms of this item, and for which substitutable goods are not produced in Australia in the ordinary course of business, should consider the Tariff Concession System (item 50). Importers seeking duty-free entry for raw materials or intermediate goods that have a substantial and demonstrable performance advantage over locally produced goods in the production of a specific end-product should consider the Certain Inputs to Manufacture Program (item 46).

By-law No. 1303871 prescribes isopropyl myristate that is classified under subheading 2915.90.00 in Schedule 3. The goods are to be for use in the formulation of cosmetics.

By-law No. 1303873 prescribes gelatin, classified under subheading 3503.00.10 in Schedule 3. The goods are to be for use in the manufacture of capsules.

By-law No. 1303874 prescribes un compounded polyamides and polyesters classified under subheadings 3907.60.00, 3907.70.00, 3907.9 or heading 3908 in Schedule 3. The goods are to be for use in the manufacture of fibres or yarns.

By-law No. 1303876 prescribes coated paper and coated paperboard classified under headings 4810 or 4811 in Schedule 3. The goods are to be for use in the production of magazines which, if imported, would be classified under subheading 4902.90.00 in Schedule 3.

For the purposes of this by-law “magazines” is defined as one issue in a continuous series under the same title published at regular intervals but at least half yearly; and does not include: comics, newspapers, staff journals, magazines issued primarily for publicity or promotional purposes, Federal, State or Territorial Government magazines, or inserts for these publications.

By-law No. 1303877 prescribes coated paper classified under headings 4810 or 4811 in Schedule 3. The goods are subject to the following conditions:

- (a) The goods must have a weight not exceeding 67 grams per square metre;
- (b) The goods are to contain more than 55% mechanical pulp; and
- (c) The goods are to be for use in the production of newspapers, periodicals, posters and other printed matter of a kind which, if imported, would be classified in Chapter 49 in Schedule 3.

By-law No. 1303878 prescribes paper classified under headings 4801 or 4802 of Schedule 3. The paper is to be for use in the production of newspapers, periodicals, posters and other printed matter of a kind that, if imported, would be classified within Chapter 49 in Schedule 3, under security.

In addition, the paper must meet one of the following specifications:

- (a) Contain more than 55% mechanical pulp and have a weight less than 34 grams per square metre;
- (b) contain more than 55% mechanical pulp, have a weight less than 48 grams per square metre but more than 40 grams per square metre and have a water absorbency when tested by the one min Cobb method of not less than 45 grams per square metre;
- (c) Contain more than 25% mechanical pulp, contain no bleached chemical pulp and have a weight not exceeding 205 grams per square metre; or
- (d) Contain not less than 70% mechanical pulp, have a weight not exceeding 205 grams per square metre and have a water absorbency when tested by the one min Cobb method of not less than 45 grams per square metre.

These specifications do not apply to paper that has more than 55% mechanical pulp and has a weight in the range of 34 grams per square metre to 40 grams per square metre.



Security Provisions

All current by-laws require a security to be lodged with the Department to ensure compliance. This should be lodged with NTIS area of the Department for goods imported under these by-laws to ensure compliance with the conditions. Securities are assessed on a case by case basis.

For further information and to apply to lodge a security for item 48 email ntis@border.gov.au with details of the importation, the item number and the applicable by-law number.

Item 49 – Aluminium sheet for use in the manufacture of cans

Aluminium sheet, as prescribed by by-law, that is classified under subheading 7606.12.00 or 7606.92.00 of Schedule 3 and is used in the manufacture of aluminium cans

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 749
GST Exemption Code: N/A
By-law Number: 1301124

Application

Item 49 provides a duty rate of Free for eligible goods.

Goods entered under item 49 are subject to the GST.

Administration

Item 49 is administered through treatment code 749 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 49 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 49 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 49 provides for the duty free entry of aluminium sheet for use in the manufacture of aluminium cans. This concession gives effect to a decision made in 1999 to remove customs duty on certain grades of aluminium can sheet to maintain competition in the Australian market for these goods following the merger of domestic producers.

In order for goods to be classified to subheading 7606.12.00 or 7606.92.00 the criteria specified in the relevant Chapter and Subheading notes must be fulfilled. An extract of the tariff has been provided below.

By-law No. 1301124 prescribes aluminium sheet classified to Chapter 76 subheadings 7606.12.00 or 7606.92.00 and used in the manufacture of aluminium cans and sets out the technical specifications for the eligible aluminium sheeting (refer Chapter 76).

Item 50 – Tariff Concession Order Goods

Goods that a tariff concession order, under part XVA of the *Customs Act 1901*, declares are goods to which this item applies:

- (a) Goods except goods classified under subheading 3817.00.10 or heading 3819.00.00 of Schedule 3; or
- (b) Goods classified under subheading 3817.00.10 of Schedule 3; or
- (c) Goods classified under heading 3819.00.00 of Schedule 3; or
 - (i) As prescribed by by-law; or
 - (ii) Other

Duty Rate and Treatment Codes:

Description	Duty	Code
<i>goods except goods classified under subheading 3817.00.10, or heading 3819.00.00, of Schedule 3</i>	Free	505
<i>goods classified under subheading 3817.00.10 of Schedule 3</i>	\$0.38143/L	508
<i>goods classified under heading 3819.00.00 of Schedule 3;</i>		
<i>(i) as prescribed by by-law;</i>	Free	509
<i>(ii) other</i>	\$0.05449/L	507

GST: Payable

Instrument: Yes, TCOs

GST Exemption Code: N/A

Instrument Numbers: Current Tariff Concession Order are at: [Tariff Concession System webpage](#).

Other:

Treatment Code 509 has been allocated to item 50(c)(i). There is a requirement to show on an import declaration a current tariff concession order and a by-law or allocated determination. At this time, no by-laws or determinations have been issued for this item.

Application

Item 50 provides a duty rate of Free for eligible goods.

However, goods classified in subheadings 3817.00.10 (mixed alkyl benzenes) and 3819.00.00 (hydraulic brake fluids etc.) are dutiable at the excise-equivalent duty rate for these goods.

Goods entered under item 50 are subject to the GST.

Administration

Item 50 is administered through the existing treatment codes 505, 507, 508 and 509, as set out above. Importers must use the treatment code appropriate to their goods when claiming the item 50 concession.

The treatment codes require the applicable TCO number to be provided on the import declaration. Users of the item must comply with the terms of the item and the terms of the TCO.

Transitional Provisions in the *Customs Tariff Amendment (Schedule 4) Act 2012* provide that TCOs in place before the commencement of the Act will continue in force.

Entry requirements for item 50 require goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 50 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 50 applies to goods that are subject of a TCO.

Item 50 has not been renumbered. Minor changes have been made to clarify the wording of the previous item. Those amendments include removal of references to the Minister for the Environment and Heritage and the Product Stewardship Oil Levy, in respect of goods of heading 3819.00.00. Item 50 will continue to apply to those goods.

To be eligible for the item 50 concession, goods must comply with the tariff classification and wording of the TCO.

Further information about the Tariff Concession Order Scheme may be obtained at: <http://www.border.gov.au/Busi/Tari/Tari-3>

Item 51 – Machinery that incorporates or is imported with other goods which render the machinery ineligible for a tariff concession order

Goods, as prescribed by by-law, where:

- (a) the goods are machinery; and
- (b) the machinery incorporates, or is imported with, other goods which makes the machinery not eligible for a tariff concession order under Part XVA of the *Customs Act 1901*

Duty Rate: Free

GST: Payable

Instrument: Yes, Determination

Treatment Code: 751

GST Exemption Code: N/A

Instrument Number: N/A

Application

Item 51 provides a duty rate of Free for eligible goods.

Goods entered under item 51 are subject to the GST.

Administration

Item 51 is administered through treatment code 751. This treatment code requires an item 51 Determination (Instrument 1) and the Tariff Concession Order (TCO) for which the goods are otherwise ineligible to be quoted on the import declaration. Users of this item must comply with the terms of the item and the terms of the Determination.

Entry requirements for item 51 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 51 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

This concession was originally introduced, as item 47, to address issues associated with concessions made under the Commercial Tariff Concession System. Under that system, parts manufacturers could object to, and seek to have their parts excluded from, a concession for complete equipment. The Commercial Tariff Concession System also included a generic parts by-law that enabled all parts of goods covered by a concession made under the system to enter Australia duty free unless they were specifically excluded from the concession.

The Tariff Concession System replaced the Commercial Tariff Concession System in November 1992. Under the new system, parts manufacturers could not object to the making of TCOs for complete machinery and there is no generic parts by-law. The item 47 concession was created to ensure that complete capital equipment could enter Australia at concessional rates without the need to remove the specifically excluded components and ship them separately or obtain them locally in order to obtain the benefit of the concession for the balance of the equipment.

The two principle criteria for accessing this concession are that the goods must be machinery and the machinery in question must incorporate goods that make it ineligible for a TCO. Given the parameters of the Tariff Concession System, few TCOs are likely to meet these criteria. For this reason, by-laws attached to previous item 47 were not recreated on the introduction of replacement item 51 on 1 March 2013. Instead requests for Determinations will be considered, as required, for eligible goods.

Where the two principle criteria for accessing the item 51 concession are met, consideration will be given to whether other avenues for duty-free entry have been sought and the likely impact an item 51 Determination will have on Australian manufacturing. Determinations will not be considered where the TCO the subject of an item 51 request was made under the Commercial Tariff Concession System, and no attempt has been made to secure a TCO under the Tariff Concession System. The Department of Industry, Innovation and Science will be consulted on all item 51 requests.

Determination Criteria

Importers seeking to use the item 51 concession must apply to the Schedule 4 Officer for a Determination. The application must contain the following:

- A full description of the goods;
- The quantity of the goods to be imported;
- The date range in which the importation will occur;
- The proposed tariff classification of the goods;
- The value of the importation;
- The purpose of the importation;
- And a statement of explanation as to how the importation meets the terms of the item

Goods exempt from the Product Stewardship Oil Levy

Item 52 – Mineral and aromatic process oils that are exempt from the Product Stewardship Oil Levy

Goods, as prescribed by by-law, that are classified under heading 2710, 3403 or 3811 of Schedule 3

Duty Rate: Free
GST: Payable
Instrument: Yes, by-law

Treatment Code: 952
GST Exemption Code: N/A
By-law Numbers: 1301128, 1301131

Application

Item 52 provides a duty rate of Free for eligible goods that is the rate of duty that would apply to eligible goods without the imposition of the Product Stewardship Oil (PSO) levy.

Goods entered under item 52 are subject to the GST.

Administration

Item 52 is administered through treatment code 952 that must be quoted on import declarations. When used, this treatment code requires the appropriate by-law number to be quoted on the import declaration. Users of the item must comply with the terms of the item and the terms of the relevant by-law.

Entry requirements for item 52 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 52 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

New item 52 provides the mechanism to remove the PSO Levy from certain goods of headings 2710, 3403 or 3811.

By-law No. 1301128 prescribes goods which are aromatic process oils classified under subheadings 2710.19.91, 2710.91.91 or 2710.99.91 of Schedule 3 to the Customs Tariff, provided that the oils meet all of the criteria set out in the by-law.

By-law No. 1301131 prescribes food grade white mineral oil, classified under subheading 2710.19.91 of Schedule 3 to the Customs Tariff.

The application of the by-law is dependent on compliance with sec. 21 CFR 172.878 of Title 21, Volume 1 of the United States Code of Federal Regulations and sec. 21 CFR 178.3620(a) of Title 21, Volume 1 of the United States Code of Federal Regulations. The United States Code of Federal Regulations is a code of regulations made by the Food and Drug Administration of the United States.



As part of the Measures for a Better Environment, announced by the Prime Minister on 28 May 1999, the Government introduced a product stewardship scheme for waste oil. The scheme commenced in January 2001 and uses revenue collected from a levy on certain oil products, to fund the recycling of oil in environmentally appropriate ways.

The PSO Levy applies to a range of petroleum based oils and related products, and is applied as a Customs duty rate on a number of tariff subheadings in Schedule 3 to the Customs Tariff. The PSO levy is also applied through the *Excise Tariff Act 1921*, to equivalent domestically produced goods. The levy is presently \$0.05449 per litre (or kilogram for greases).

In 2002, following representations from industry, the Government decided that certain goods would be exempt from the PSO Levy.

The goods to be exempted were certain food grade white mineral oils, certain aromatic process oils and certain polyglycol brake fluids. Item 52 covers the exemptions for certain food grade white mineral oils, certain aromatic process oils as described in By-laws Nos 1301128 and 1301131.

Item 53 – Polyglycol Brake Fluids that are exempt from the Product Stewardship Oil levy

Goods:

- (a) As prescribed by by-law, that are classified under heading 3819.00.00 of Schedule 3; and
- (b) That are not goods to which item 50 of this Schedule applies

Duty Rate: 5%
GST: Payable
Instrument: Yes, by-law

Treatment Code: 953
GST Exemption Code: N/A
By-law Number: 1301133

Application

Item 53 provides a general rate of duty of 5% for eligible goods that is the rate of duty that would apply to eligible goods without the imposition of the Product Stewardship Oil Levy (PSO levy).

Item 53 also applies a duty rate of 5% for goods from the United States of America, Chile, Thailand, Korea, Japan and signatory states to the ASEAN-Australia-New Zealand Free Trade Agreement. For these countries, the relevant free trade agreements provided a free rate of duty for these goods (not including the excise component of the duty), but not when covered by a concessional item in Schedule 4. Consequently, while item 53 does not impose the PSO Levy, it does apply the rate of 5% applicable to goods of heading 3819.00.00.

Goods entered under item 53 are subject to the GST.

Administration

Item 53 is administered through treatment code 953 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 53 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 53 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 53 provides the mechanism to remove the PSO Levy from approved exempted oils being certain polyglycol brake fluids.

By-law No. 1301133 prescribes polyglycol brake fluids under heading 3819.00.00 of Schedule 3, that meet the requirements of Australian Standard AS 1960.1-2005 *Motor vehicle brake fluids - Non-petroleum type*. The by-law provides technical specifications for polyglycol brake fluids exempted from the PSO levy.



As part of the Measures for a Better Environment, announced by the Prime Minister on 28 May 1999, the Government introduced a product stewardship scheme for waste oil. The scheme commenced on 1 January 2001 and uses revenue collected from a levy on certain oil products, to fund the recycling of oil in environmentally appropriate ways.

The PSO Levy applies to a range of petroleum based oils and related products, and is applied as a Customs duty rate on a number of tariff subheadings in Schedule 3 to the Customs Tariff. The PSO levy is also applied through the *Excise Tariff Act 1921*, to equivalent domestically produced goods. The levy is presently \$0.05449 per litre (or kilogram for greases).

In 2002, following representations from industry, the Government decided that certain goods would be exempt from the PSO Levy.

The exempted goods were certain food grade white mineral oils, certain aromatic process oils and certain polyglycol brake fluids.

Miscellaneous goods

Item 54 – Handicrafts

Handicrafts, as prescribed by by-law

Duty Rate: Free

GST: Payable

Instrument: Yes, by-law

Treatment Code: 754

GST Exemption Code: N/A

By-law Number: 1303352

Application

Item 54 provides a duty rate of Free for eligible goods.

Goods entered under item 54 are subject to the GST.

Administration

Item 54 is administered through treatment code 754 that must be quoted on import declarations. When used, this treatment code requires the by-law number to be quoted on the import declaration.

Entry requirements for item 54 call for the goods to be entered under the tariff classification and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 54 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 54 provides a concession for the duty free entry of genuine handicrafts into Australia. The concession relates to Australia's commitment to the General Agreement on Tariff and Trade (GATT) Article XXXVI and which attempts to advantage trade of the developing countries to allow them to compete more favourably on the Australian market, while still protecting Australian industry.

By-law No 1303352 is made for the purposes of item 54. To be eligible for the item 54 concession, goods must meet the terms of this by-law.

By-law No. 1303352 prescribes, subject to conditions, a number of handicrafts and specifies the production processes for these handicrafts. The goods prescribed include:

- a) Imitation jewellery, classified to heading 7117 of Schedule 3, being beads put up as necklaces, bracelets or anklets;
- b) Imitation jewellery, classified to heading 7117 of Schedule 3, made up from naturally occurring products or materials with or without metal fittings;
- c) Furniture and parts therefor, classified to heading 9401 or 9403 of Schedule 3, in which the artistic or decorative character is achieved by inlaid work or by carved designs carried out by hand;

- 
- d) Handicrafts other than clothing, footwear, fabrics, yarn, articles made up from fabric and yarn and jewellery classified to heading 7113, 7115 or 7116;
 - e) Fabrics containing not less than 90% by weight of natural fibres;
 - f) Textile fabric that is printed or dyed by the methods specified within the by-law, goods made from this fabric and garments that are printed or dyed by the specified methods after being made up;
 - g) Goods containing not less than 90% by weight of natural fibres, made up from fabric or yarn, that are hand crocheted, hand knitted, hand netted or hand woven;
 - h) Footwear (not incorporating wedges or platforms) which is the produce or manufacture of a developing country and classified under subheading 6403.59.00 in Schedule 3 to the Customs Tariff.

This by-law does not apply to towels, towelling and towelling products or to curtains classified under heading 6303 in Schedule 3 to the Customs Tariff.

Item 55 – Cheese and curd quota

Cheese and curd, as prescribed by by-law, that are classified under subheading 0406.10.00, 0406.20.00, 0406.30.00, 0406.40.90 or 0406.90.90 of Schedule 3

Duty Rate: \$0.096/kg

DC:\$0.096/kg, less 5%

DCS:\$0.096/kg, less 5%

GST: Payable

Instrument: Yes, Tariff Quota
Determination

Treatment Code: 755 (from 01 July 2013)

462 (until 30 June 2013)

GST Exemption Code: N/A

Instrument Number: N/A

Application

Item 55 provides a reduced rate of duty for cheese and curd quota holders.

Goods entered under item 55 are subject to the GST.

Administration

Item 55 is administered through treatment code 755, from 1 July 2013. Until that date item 55 was administered through treatment code 462.

A tariff quota instrument number is also required to be input on the Import Declaration.

Entry requirements for item 55 call for the goods to be entered under the relevant tariff classifications and statistical code set out in Schedule 3 of the Tariff Working Pages before claiming the concessional item.

Goods that attract a duty rate of Free in their own right under Schedules 3, 5, 6, 7, 8, 9, 10 or 11 are ineligible to claim item 55 in accordance with subsection 18(1) of the Customs Tariff.

Eligibility and Background

Item 55 applies to goods for which cheese and curd quota applies. Existing quota instruments made under item 62 will continue to apply to cheese and curd subject to quota.

Cheese and Curd Quota Scheme

The cheese and curd quota scheme was introduced in 1987. The objective of the scheme is to improve the competitiveness of the Australian dairy industry through a combination of quota restrictions and tariff reductions.

In July each year, the quota is allocated to importers in direct proportion to their past imports using quota during the previous 23 month period ending 31 May of that year.

Under the scheme certain types of cheese and curd can be imported at a concessional rate of duty. These concessional cheese and curd imports are restricted to 11,500 tonnes a year. Goods may be imported outside the 11,500 quota; however a higher rate of duty applies.

Importers may apply for quota by transfer from a current quota holder (either directly or through the quota broker). The names of quota holders are published in the Commonwealth of Australia Tariff Concessions Gazette.

The calculation of an importer's quota is based on the actual use of quota by that importer during the previous 23-months and excludes any part of the quota that transferred to another importer during the 23-month period or that was unused.

To use the quota allocated, importers are required to 'enter for home consumption' their imported cheese or curd by the end of the financial year to which the allocation relates, that is, by 30 June of that year.

Types of cheese and curd covered:

- Fresh (unripened or uncured) cheese, (including whey cheese, and curd)
- Grated or powdered cheese of all kinds
- Processed cheese
- Blue-vein cheese (excluding Roquefort and stilton)
- Cheese classified to 0406.10.00, 0406.20.00, 0406.30.00, 0406.40.90 or 0406.90.90.

Transferring Cheese and Curd Quotas

If an importer wishes to use a quota allocation that has been transferred from another importer, an application to receive quota by transfer must be lodged with the Department, see below, this should be lodged well before importation.

Quota allocations are transferable between importers, if an importer wishes to use the transferred quotas an application must be lodged with the Department, using [Form B235](#), available at www.border.gov.au or from the Trade and Customs branch by telephone. Applications should be lodged well before importation.

Cheese and Curd Quota Scheme Exclusions

Where cheese or curd importations are of Australian origin (returned Australian goods), or a free rate of duty is provided under Schedule 3 of the Customs Tariff, preference circumstances, or a Free Trade Agreement, quota is unable to be used.

Cheese and Curd not covered by the scheme:

- Roquefort and stilton,
- Goat's milk cheese other than feta or kasseri,
- Surface ripened soft cheese and
- Any cheese and curd eligible for New Zealand, Papua New Guinea, South Pacific Island Forum Countries, Singapore, United States of America or Thailand preference

The above Cheese and Curd are not covered by the Scheme and may be imported at a Free rate of duty.

Appendix 1

Convention on the Harmonized Commodity Description and Coding System:

http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs_convention.aspx

Customs Convention concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events (Revised Kyoto Convention)

<http://www.austlii.edu.au/au/other/dfat/treaties/1997/22.html>

Customs Convention on ATA carnets for the Temporary Admission of Goods

http://www.wcoomd.org/en/about-us/legal-instruments/~/~~/media/WCO/Public/Global/PDF/About%20us/Legal%20Instruments/Conventions%20and%20Agreements/Istanbul/Istanbul_legal_text_Eng.ashx

Customs Convention concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events - Revised Kyoto Convention.

http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spang.aspx

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) Agreement on the Importation of Educational, Scientific and Cultural Materials (Florence, 1950) and

<http://www.austlii.edu.au/au/other/dfat/treaties/1992/12.html>

Protocol (the Nairobi Protocol) to the Agreement on the Importation of Educational, Scientific or Cultural Materials known as the Florence Agreement

http://portal.unesco.org/en/ev.php-URL_ID=15224&URL_DO=DO_TOPIC&URL_SECTION=201.html