



## ATO Interpretative Decision

ATO ID 2006/37

### Goods and Services Tax

### GST and the supply of vertical lifts specifically designed for use primarily by people with limited mobility

FOI status: may be released

Status of this decision: Decision Current

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## Issue

Is the entity, a supplier of lifts, making a GST-free supply under subsection 38-45(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), when it supplies a slow speed vertical lift that is specifically designed for use primarily by people with limited mobility?

## Decision

Yes. The entity is making a GST-free supply under subsection 38-45(1) of the GST Act when it supplies a slow speed vertical lift that is specifically designed for use primarily by people with limited mobility.

## Facts

The entity is a supplier of lifts. It supplies a slow speed vertical lift that is for use primarily by people with limited mobility.

The lift is electrically operated.

The lift complies with the relevant part of the Australian Standard (AS 1735) in relation to passenger lifts that are for use primarily by persons with limited mobility (Part 15, 16 or 17 as the case may require).

There is no agreement between the entity and the recipient of the supply that the supply will not be treated as a GST-free supply.

The entity is registered for goods and services tax (GST).

## Reasons for Decision

Under subsection 38-45(1) of the GST Act, the supply of a medical aid or appliance is GST-free where the medical aid or appliance:

- is covered by Schedule 3 to the GST Act (Schedule 3), or specified in the A New Tax System (Goods and Services Tax) Regulations 1999 (GST Regulations)
- is specifically designed for people with an illness or disability, and
- is not widely used by people without an illness or disability.

Item 88 in the table in Schedule 3 (Item 88) lists 'manual, electric, ceiling track or pool hoists specifically designed for people with disabilities'.

The ordinary meaning of 'hoist' as defined in *The Macquarie Dictionary*, 1997, 3rd edn, The Macquarie Library Pty Ltd New South Wales is:

4. an apparatus for hoisting, as a lift,
5. a lift for heavy goods: goods lift

The usual devices that are covered by Item 88 are used to lift an individual and transfer them, for example, from a bed to a wheelchair or from a wheelchair into a pool. The ordinary meaning of 'hoist' also covers lifts

The lift is electrically operated. Therefore, it is included in the range of hoists to which Item 88 relates subject to it satisfying Item 88 in relation to specific design requirements.

Item 88 restricts the device to those which are specifically designed for people with disabilities.

The Australian Standards in relation to lifts, escalators and moving walks (AS 1735) have parts which relate to people with limited mobility, for example, AS 1735.15 applies to 'passenger lifts that are intended primarily to provide vertical access for persons with limited mobility'. This evidences that some lifts are specifically designed for people with disabilities and are not merely general purpose passenger lifts with additional facilities for people with disabilities such as Braille information and lower buttons which are accessible by people in wheelchairs.

Therefore, vertical lifts that are specifically designed for people with disabilities are covered by Item 88. This satisfies the first requirement in subsection 38-45(1) of the GST Act.

The second requirement in subsection 38-45(1) of the GST Act is that the item must be specifically designed for people with an illness or disability. The vertical lift complies with the relevant part of the Australian Standard (AS 1735) in relation to passenger lifts that are for use primarily by people with limited mobility. As the requirements of Item 88 are that the device must be specifically designed for people with disabilities, and Item 88 has been satisfied, this requirement is also satisfied.

The third requirement in subsection 38-45(1) of the GST Act is that the thing supplied is not widely used by people without an illness or disability. The entity supplies a slow speed vertical lift that is for use primarily by people with limited mobility. It is not a lift that is widely used by people without an illness or disability. Therefore, this requirement is also satisfied.

All the requirements in subsection 38-45(1) of the GST Act are satisfied. The entity is making a GST-free supply under subsection 38-45(1) of the GST Act when it supplies a slow speed vertical lift that is specifically designed for use primarily by people with limited mobility.

*Note: In circumstances where the lift is intended to be used by the wider community, the third requirement will not be satisfied. For example, AS 1735.12 applies to 'newly installed lifts in the public access path, in newly constructed lift wells in other than private residence, and for which a building authority having jurisdiction stipulates the provision of facilities for person with disabilities'. The facilities for persons with disabilities include such things as handrails, tactile or Braille symbols on the control panels, audible, visible*

*and tactile information, etc. Therefore, while these lifts have additional facilities for people with disabilities, they are general purpose lifts which would be widely used by people without illnesses or disabilities.*

**Date of decision:** 7 February 2006

**Legislative References:**

A New Tax System (Goods and Services Tax) Act 1999  
subsection 38-45(1)  
Schedule 3  
Schedule 3 table item 88

A New Tax System (Goods and Services Tax) Regulations 1999  
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**Other References**

The Macquarie Dictionary, 1997, 3rd edn, The Macquarie Library Pty Ltd NSW.

**Keywords**

Goods and services tax  
GST free  
GST health  
Section 38-45 - medical aids & appliances

**Date of publication:** 10 February 2006

**ISSN:** 1445-2782

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