



Office of State Revenue
NSW TREASURY

ABN: 77 456 270 638

Revenue Ruling No. BF11

Assessment of Business Franchise Fees on Tobacco Provided as Rebates

PREAMBLE

In some cases, tobacco wholesalers provide rebates to their customers in the form of an equivalent value of tobacco instead of making cash payments or crediting accounts with the amount of the rebates. The purpose of this ruling is to clarify the position in relation to liability for licence fees on rebate stock.

RULING

1. Section 41 of the Act sets out the method of calculating fees to be paid for licences. The fee for a wholesaler's licence or a group wholesalers' licence includes an amount equal to a percentage of the value of sales, other than sales to licensed wholesalers. The fee for a retailer's licence or a group retailers' licence includes an amount equal to a percentage of sales other than sales of tobacco purchased from a licensee.
2. Rebates are often used by tobacco wholesalers to provide particular customers with a discount from the normal cost of tobacco. The extent of the rebate generally relates to the quantity of tobacco purchased. Rebates are sometimes provided in the form of a quantity of tobacco equal in value to the amount of the rebate.
3. Some wholesalers have argued that rebate stock should not be included in the value of sales for the purpose of calculating their licence fee because the stock is not paid for by the purchaser.
4. However, it is considered that stock rebates form part of the sale of tobacco to which the rebate relates. The consideration given by the purchaser for rebate stock is the value of the rebate credited in respect of the original purchase, hence the rebate stock cannot be regarded as a gift.
5. Wholesalers must therefore include the value of tobacco provided as rebates as well as the value of conventional sales in the calculation of their monthly licence fees.
6. A licensee who fails to pay fees on the value of rebate stock is liable to a penalty of 200 per cent of the amount evaded, in accordance with section 46 of the Act. Revenue Ruling BF3 deals with such penalties.

A. D. CLYNE,
Chief Commissioner for Business
Franchise Licences (Tobacco)
11 March 1988.

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