

SALES TAX ASSESSMENT (No. 1).

No. 47 of 1933.

An Act to amend the *Sales Tax Assessment Act*
(No. 1) 1930-1933.

[Assented to 12th December, 1933.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title and
citation.

1.—(1.) This Act may be cited as the *Sales Tax Assessment Act* (No. 1) 1933.

(2.) Section nine of the *Financial Relief Act* 1933* is amended by omitting sub-section (1.).

(3.) The *Sales Tax Assessment Act* (No. 1) 1930-1932†, as amended by the *Financial Relief Act* 1933, is in this Act referred to as the Principal Act.

(4.) The Principal Act, as amended by this Act, may be cited as the *Sales Tax Assessment Act* (No. 1) 1930-1933.

Definitions.

2. Section three of the Principal Act is amended by inserting at the end of the definition of "Sale of goods by wholesale" the words "but, notwithstanding anything contained in the foregoing provisions of this definition, does not include—

- (a) the sale by a retailer to his employees of goods at a discount from the retail selling price;
- (b) the sale of goods, by a retailer, whether or not at a discount from the retail selling price, for the accommodation of the purchaser owing to temporary shortage of stock of the purchaser such goods being of a kind usually manufactured by the purchaser or usually purchased by him from a manufacturer or wholesale merchant for sale;
- (c) the sale of goods by a retailer on cash orders issued by firms or persons carrying on the business of issuing cash orders authorizing or requesting goods to be supplied to the holders of such cash orders;
- (d) the sale whether for cash or on credit, and whether at a discount from the retail selling price or not, of goods of a kind used in the construction and repair of and wrought into or attached to so as to form part of buildings, unless

* Act No. 17, 1933.

† Act No. 25, 1930, as amended by No. 62, 1930; No. 25, 1931; No. 39, 1932; and by No. 64, 1932.

such goods are sold to a person (not being a person who buys goods for supply to some other person in the circumstances specified in sub-section (4.) of this section) who buys the goods for the purpose of resale ;

- (e) the sale by a retailer, whether for cash or on credit, and whether at a discount from the retail selling price or not, of goods of a kind used in the manufacture of and wrought into or attached to clothes for human wear, if the sale is made to a person whose principal business is the making up of articles of human wear to the orders of individual customers ; and
- (f) the supply of goods by a person to some other person in the circumstances specified in sub-section (4.) of this section, and any sale or supply of goods as specified in paragraph (a) (b) (c) (d) (e) or (f) of this definition shall be deemed to be a sale of goods by retail.

For the purposes of this definition "retailer" means a person whose sales of goods (not including sales to which paragraphs (a) (b) (c) and (e) of this definition apply) are made principally by retail and "sale of goods by a retailer" means a sale of goods from stock in a retail store or a retail section of a store."

3. Section eighteen of the Principal Act is amended—

- (a) by inserting at the end of sub-section (2.) the following proviso :—

Sale value
of goods.

" Provided that in any case where the Commissioner is satisfied, with respect to any goods used in, wrought into or attached to goods (being goods to which this sub-section applies) manufactured by the taxpayer, that sales tax has been paid in respect of the goods so used, wrought into or attached, the sale value of the manufactured goods shall be the amount of the wages actually paid in respect of the manufacture of the manufactured goods increased by twenty per centum of that amount." ;

- (b) by inserting at the end of sub-section (3.) the following proviso :—

" Provided that in any case where the Commissioner is satisfied with respect to any goods used in, wrought into or attached to goods (being goods to which this sub-section applies) manufactured by the taxpayer, that sales tax has been paid in respect of the goods so used, wrought into or attached, the sale value of the manufactured goods shall, unless the manufacturer sells similar goods by wholesale or is a person who sells goods principally by wholesale, be the amount of the wages actually paid in respect of the manufacture of the manufactured goods increased by twenty per centum of that amount." ; and

(c) by inserting in sub-section (3A.) after the word "applies" the words "(not being goods to which the proviso to sub-section (2.) or (3.) of this section applies)".

Exemptions. 4. Section twenty of the Principal Act is amended by inserting in paragraph (e) of sub-section (1.) thereof, after the word "person", the words "(not being a person whose principal business consists of the manufacture of goods, other than articles for human wear, to the order of individual customers or a person who manufactures goods in his own home)".

Returns, etc. 5. Section twenty-one of the Principal Act is amended by omitting all the words after the word "Commissioner" and inserting in their stead the words "a return of those sales, or, as the case may be, of those goods, in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form."

Further tax. 6. Section twenty-five of the Principal Act is amended by inserting after sub-section (2.) the following sub-section :—

"(2A.) Where—

- (a) any person makes default in furnishing any return ; or
- (b) the Commissioner is not satisfied with the return made by any person ; or
- (c) the Commissioner has reason to believe or suspect that any person (though he may not have furnished any return) is liable to pay sales tax,

the Commissioner may cause an assessment to be made of the amount upon which, in his judgment, sales tax ought to be levied, and that person shall be liable to sales tax thereon, excepting so far as he establishes on objection that the assessment is excessive."

Refunds of tax. 7. Section twenty-six of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section :—

"(1.) Where the Commissioner finds in any case that tax has been overpaid and is satisfied that the tax has not been passed on by the taxpayer to some other person, or, if passed on to some other person, has been refunded to that person by the taxpayer, the Commissioner may refund the amount of tax found to be overpaid." ;

(b) by omitting the proviso to sub-section (2.) and inserting in its stead the following proviso :—

"Provided that if any amount in respect of which tax has been so refunded is at any time wholly or partly recovered by the taxpayer, he shall, within twenty-one days after the close of the month in which the amount is so recovered, repay to the Commissioner so much of the tax refunded as bears to the total amount of that tax the proportion which the amount so recovered bears to the amount in respect of which tax was so refunded." ; and

(c) by adding at the end thereof the following sub-section:—

“(6.) Notwithstanding anything contained in this section, if, either before or after the commencement of this sub-section, any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of transactions acts or operations which took place before the date of assent to the law making the alteration.”.

8. After section seventy c of the Principal Act the following sections are inserted:—

“70D.—(1.) Any person not liable to pay sales tax in respect of any goods shall not, upon the sale or offer for sale of those goods, demand or receive or seek to receive any sum of money (whether included in a larger sum or not) upon the pretence that that sum is chargeable to, and payable by, him as tax under this Act. False pretence as to sales tax an offence.

Penalty: One hundred pounds.

(2.) Any person who—

(a) has paid or is liable to pay an amount of sales tax in respect of any goods; or

(b) has purchased goods at a price which includes an amount in respect of sales tax payable by the vendor under this Act, shall not, upon the sale or offer for sale of those goods, demand or receive or seek to receive any sum of money (whether included in a larger sum or not) in excess of that amount upon the pretence that that sum has been paid or is payable by him as sales tax, or has been included in respect of sales tax in the price paid by him for the goods.

Penalty: One hundred pounds.

“70E.—(1.) Every person who is a manufacturer or a wholesale merchant shall, for the purposes of this Act, keep proper books or accounts and shall preserve those books or accounts, including— Books, accounts, etc., to be preserved.

- (a) all copies of invoices, and all vouchers, relating to his business;
- (b) all documents upon which any endorsement, notice or certificate has been made or given to him upon or in connexion with the quotation of certificates by purchasers from him; and
- (c) all certificates or other documents in respect of sales of goods treated by him as exempt from sales tax received by him from purchasers, and accepted by him as evidence that the goods have been sold under conditions which entitle him to exemption,

for a period of not less than five years after the completion of the transactions, acts or operations to which they relate.

Penalty: One hundred pounds.

(2.) This section shall not apply so as to require the preservation of any books, accounts or documents—

(a) in respect of which the Commissioner has notified a manufacturer or wholesale merchant that such preservation is not required,

(b) of a company which has gone into liquidation and which has been finally dissolved.”

Sale value of goods.

9. Notwithstanding anything contained in section four of the *Sales Tax Assessment Act (No. 1) 1932*, the provisions of section eighteen of the *Sales Tax Assessment Act (No. 1) 1930-1931*, as in force immediately prior to the commencement of the *Sales Tax Assessment Act (No. 1) 1932*, shall continue, and be deemed to have at all times continued, in force for all purposes in connexion with liability to sales tax in respect of transactions, acts and operations prior to such commencement.
