
SALES TAX PROCEDURE.

No. 12 of 1935.

An Act to amend section three of the *Sales Tax Procedure Act 1934* and to insert in that Act a new section twelve A.

[Assented to 11th April, 1935.]

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

1.—(1.) This Act may be cited as the *Sales Tax Procedure Act 1935*. Short title and citation.

(2.) The *Sales Tax Procedure Act 1934** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Sales Tax Procedure Act 1934-1935*.

Definitions.

2. Section three of the Principal Act is amended by inserting, at the end of the definition of "Goods", the words " , but (except in the application of this Act to goods to which the *Sales Tax Assessment Act (No. 9) 1930*, or that Act as amended from time to time, applies) does not include goods which have, either through a process of retailing or otherwise, gone into use or consumption in Australia ".

3. After section twelve of the Principal Act the following section is inserted :—

Refunds.

" 12A.—(1.) Notwithstanding the provisions of any Sales Tax Assessment Act (other than provisions relating to objections and appeals) or of any regulations made under any such Act, where any person has paid any amount either as sales tax or for sales tax in respect of any goods, by reason of any transaction, act or operation effected or done in relation to those goods, that person shall not be entitled to any refund of that amount—

- (a) if the amount was paid prior to the thirteenth day of December, One thousand nine hundred and thirty-four—upon any ground to the effect, expressly or impliedly, that those goods had gone into use or consumption in Australia prior to that transaction, act or operation ; or
- (b) if the amount was paid either before or after that date—upon a prescribed ground as defined in this section, unless that person finally succeeds in an action, upon that ground, brought, in pursuance of this section, for the recovery of that amount :

Provided that where any person has paid any amount either as sales tax or for sales tax by reason of the sale of any goods which prior to that sale had gone into use or consumption in Australia and the Commissioner, upon the production of such evidence (other than, or additional to, the statement, whether by statutory declaration or otherwise, of that person) as the Commissioner considers sufficient, is satisfied—

- (a) that the amount was paid within one month after the close of the month in which the sale took place or within such further time as had been allowed by or under the authority of the Commissioner upon a request made by or on behalf of that person during that first mentioned month ; and

* Act No. 53, 1934.

- (b) that the amount has not been passed on by that person to the purchaser of the goods in the total sum paid by the purchaser to the vendor in respect of the sale,

the Commissioner may refund to that person the amount so paid by him.

“(2.) Where any amount has been or is paid as specified in the last preceding sub-section by any person, and that person has paid or pays the amount under protest, as provided in the next succeeding sub-section, upon a prescribed ground as defined in this section, that person may, within six months after the date on which the amount was paid, bring an action upon that ground against the Commonwealth, in any Commonwealth or State Court of competent jurisdiction, for the recovery of the amount so paid.

“(3.) A person shall not be deemed to have paid any amount under protest in pursuance of this section unless, at the time of the payment, that person has lodged or lodges, at the office at which the payment is made, a statement in writing bearing the endorsement ‘Paid under protest’, and stating the prescribed ground upon which the protest is made.

“(4.) For the purposes of this section—

‘goods’ includes—

- (a) commodities ; and
(b) goods or commodities which have gone into use or consumption in Australia ;

‘prescribed ground’ means—

- (a) in relation to any amount paid by a person either as sales tax or for sales tax payable under the *Sales Tax Assessment Act (No. 1) 1930* or that Act as amended from time to time—any ground to the effect, expressly or impliedly, that the goods in respect of which the amount was paid were not, within the meaning of that Act, or of that Act as amended from time to time, goods manufactured in Australia by that person ; and
(b) in relation to any amount paid by a person either as sales tax or for sales tax payable under any other Act relating to the imposition, assessment and collection of tax upon the sale value of goods manufactured in Australia—any ground to the effect, expressly or impliedly, that the goods in respect of which the amount was paid were not, within the meaning of that Act, goods manufactured in Australia ;

‘sale’ includes a lease of goods under a hire purchase agreement.”.