



Sales Tax Laws Amendment Act 1985

No. 47 of 1985

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AMENDMENT OF VARIOUS LAWS



Sales Tax Laws Amendment Act 1985

No. 47 of 1985

An Act to amend various laws in relation to sales tax, and for related purposes

[Assented to 30 May 1985]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Sales Tax Laws Amendment Act 1985*.

Commencement

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 3, sub-section 4 (2), sections 11 and 12 and Part XI shall be deemed to have come into operation on 21 August 1981.

(3) Sections 5, 18, 20, 22 and 24, sub-section 28 (2) and sections 39, 40, 45, 48, 50, 51 and 53 shall be deemed to have come into operation on the commencement of the *Sales Tax Assessment Act (No. 10) 1985*.

(4) The amendments made by paragraphs 19 (a), 21 (a), 23 (a), 44 (a), 47 (a), 49 (a) and 58 (d) and (e) shall be deemed to have commenced to have effect on the commencement of the *Sales Tax Assessment Act (No. 10) 1985*.

(5) The amendments made by paragraphs 19 (b), 21 (b), 23 (b), 44 (b), 47 (b), 49 (b) and 58 (a), (b) and (c) shall commence to have effect on the day on which this Act receives the Royal Assent.

PART II—AMENDMENT OF SALES TAX ASSESSMENT ACT (No. 1) 1930

Principal Act

3. The *Sales Tax Assessment Act (No. 1) 1930*¹ is in this Part referred to as the Principal Act.

Interpretation

4. (1) Section 3 of the Principal Act is amended—

(a) by inserting after the definition of “Agent” in sub-section (1) the following definition:

“ ‘Arrangement’ means any arrangement, agreement or understanding—

(a) whether formal or informal;

(b) whether express or implied; or

(c) whether or not enforceable, or intended to be enforceable, by legal proceedings;”;

(b) by omitting from sub-section (1) the definitions of “Manufactured” and “Manufactures”;

(c) by omitting the definition of “Wholesale Merchant” from sub-section (1) and substituting the following definition:

“ ‘Wholesale Merchant’ means—

(a) a person who engages, whether exclusively or not, in the sale of goods by wholesale, and includes—

(i) a trustee in whom the ownership of the business of any wholesale merchant or manufacturer becomes vested, or who becomes entitled to the possession, management or control of that business or of the goods of that business, and who sells those goods, whether in the course of carrying on or in the course of winding-up or realizing that business;

(ii) a person who, notwithstanding that the person manufactures goods for another person, is, pursuant to the definition of ‘Manufacturer’, deemed not to be the manufacturer of the goods; and

- (iii) a person who applies any process or treatment to goods which are—
 - (A) to be used in, wrought into or attached to goods to be manufactured by a manufacturer;
 - (B) supplied to the person by the manufacturer of those goods for the purpose of having them brought into the form or condition in which they are to be marketed or used or further processed or treated by the manufacturer; or
 - (C) to be exported from Australia and which are to be used in, wrought into or attached to goods to be manufactured outside Australia; or
- (b) a person who sells goods under an indirect marketing arrangement.”;
- (d) by omitting sub-sections (2) and (3) and substituting the following sub-sections:
 - “(2) Subject to sub-section (3), a person shall, for the purposes of this Act (except Part III), be taken to quote his certificate when he quotes his certificate in the manner referred to in sub-section 12 (1).
 - “(3) Where a person purports to quote a certificate to another person, and the other person has reasonable grounds to believe that—
 - (a) the first-mentioned person—
 - (i) is not a registered person;
 - (ii) is quoting the certificate otherwise than in accordance with sub-section 12 (1); or
 - (iii) is prohibited, by virtue of a notice issued under sub-section 15A (1), from quoting the certificate;
 - (b) the quotation—
 - (i) is false or misleading in a material particular; or
 - (ii) omits any matter or thing without which the quotation is misleading in a material particular; or
 - (c) the Commissioner has published or provided information relating to the certificate under section 16A,the first-mentioned person shall, for the purposes of this Act (except Part III), be deemed not to have quoted his certificate.”; and
- (e) by inserting after sub-section (4) the following sub-section:
 - “(4A) A reference in this Act to a person selling goods under an indirect marketing arrangement is a reference to a person (in this

sub-section referred to as the 'vendor'), who is not the manufacturer of the goods, selling goods by retail—

- (a) under an arrangement that provides, directly or indirectly, for the sale of goods (whether ascertained or not) by the vendor through another person acting for and on behalf of the vendor, whether in the name of the vendor or in any other name, but not being an employee of the vendor; or
- (b) from premises that—
 - (i) are used principally for the sale of goods by retail by any other person or persons; and
 - (ii) are held out to be premises of, or used by, the other person or persons.”.

(2) Section 3 of the Principal Act is amended by omitting from sub-section (1) the definition of “Manufacture” and substituting the following definition:

“ ‘Manufacture’ includes—

- (a) production;
- (b) the combination of parts or ingredients whereby an article or substance is formed that is commercially distinct from those parts or ingredients; and
- (c) any treatment applied to foodstuffs as a process in the preparation of the foodstuffs for human consumption,

but does not include a combination falling within paragraph (b) (other than a combination whereby a prescribed article or substance is formed) if, in the opinion of the Commissioner, the combination is of a kind that is customarily undertaken by persons who use the articles or substances formed by combinations of that kind for the purposes for which the articles or substances are intended to be ultimately used;”.

5. After section 3 of the Principal Act the following section is inserted in Part I:

Royalty

“3A. (1) Subject to sub-section (2), a reference in this Act to payment of a royalty, in relation to goods, is a reference to payment of an amount of royalty in respect of goods that occurs at a time when the goods are neither excluded goods nor exempt goods.

“(2) Where—

- (a) a person pays an amount of royalty in respect of goods at a time when the goods are excluded goods or exempt goods; and
- (b) the payment is made in connection with a scheme entered into or carried out for the purpose of enabling any person to avoid liability to pay an amount of sales tax that would have been, or might reasonably be expected to have been, payable in respect of the goods,

the payment shall be deemed, for the purposes of this Act, to have been made at a time when the goods were neither excluded goods nor exempt goods.

“(3) For the purposes of sub-sections (1) and (2), an amount of royalty that is paid in respect of goods and another matter shall, to the extent to which it is attributable to the goods, be deemed to be paid in respect of the goods.

“(4) For the purposes of this Act, where a non-resident pays an amount of royalty in respect of goods at the request of, or under an arrangement with, a resident, then, unless the Commissioner otherwise directs, the resident shall be deemed to pay, and the non-resident shall be deemed not to pay, the amount of royalty.

“(5) A reference in this section to royalty is a reference to an amount, however described or computed, that is paid by a person (whether the payment is periodical or not) to the extent to which the amount is paid by way of royalty (or like payment) as consideration for—

- (a) the doing of, or the right to do, any act that would constitute an infringement of copyright if done without the licence of the owner of the copyright, other than an act consisting of—
 - (i) performing a work;
 - (ii) broadcasting a work, sound recording or cinematograph film;
 - (iii) causing a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
 - (iv) causing a sound recording to be heard in public;
 - (v) causing a cinematograph film to be seen in public; or
 - (vi) exhibiting an article in public;
- (b) the making, use, exercise or vending of an invention or the right to make, use, exercise or vend an invention;
- (c) the use of, or the right to use—
 - (i) a design or trade mark;
 - (ii) confidential information; or
 - (iii) machinery, implements, apparatus or other equipment;
- (d) the supply of scientific, technical, industrial, commercial or other knowledge or information;
- (e) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any matter falling within any of the foregoing paragraphs; or
- (f) a total or partial forbearance in respect of any matter falling within any of the foregoing paragraphs (including paragraph (e)).

“(6) Where goods are manufactured or sold subject to the payment of a royalty, a reference in this Act, in relation to the ascertainment of the sale value of the goods, to—

- (a) the amount for which the goods are sold or purchased;
- (b) the amount for which the goods could reasonably be expected to have been sold or purchased;

- (c) the amount for which identical goods could reasonably be expected to have been sold or purchased;
- (d) the amount charged to a person by another person in respect of the goods;
- (e) a particular value of the goods;
- (f) the amount of wages paid in respect of the manufacture of the goods; or
- (g) the amount payable in respect of the manufacture of the goods,

shall be read as including a reference to—

- (h) except where paragraph (j) or (k) applies—such amount as, in the opinion of the Commissioner, is the value of the royalty;
- (j) in the case of a reference to the amount of wages paid in respect of the manufacture of the goods—
 - (i) where the reference occurs in the first proviso to sub-section 18 (2)—57%; or
 - (ii) where the reference occurs in the proviso to sub-section 18 (3)—83%,of the amount that, in the opinion of the Commissioner, is the value of the royalty; or
- (k) in the case of a reference to the amount payable in respect of the manufacture of the goods—75% of the amount that, in the opinion of the Commissioner, is the value of the royalty.

“(7) For the purposes of this section—

- (a) an expression used in paragraph (5) (a) has the same meaning in that paragraph as in the *Copyright Act 1968*, but ‘cinematograph film’, in addition to the meaning given by that Act, includes a video tape or video disc;
- (b) an expression used in paragraph (5) (b) has the same meaning in that paragraph as in the *Patents Act 1952*;
- (c) ‘design’ means a design of a kind capable of being registered under the *Designs Act 1906*, whether or not it is registered under that Act or any other law; and
- (d) ‘trade mark’ means a mark of a kind capable of registration under the *Trade Marks Act 1955*, whether or not it is registered under that Act or any other law, but does not include a mark that relates to a service.

“(8) In this section—

- ‘excluded goods’ means goods, including commodities, of a kind referred to in paragraph (a) or (b) of the definition of ‘goods’ in sub-section 3 (1);
- ‘exempt goods’ means goods the sale value of which is exempt from sales tax by virtue of the *Sales Tax (Exemptions and Classifications) Act 1935*;
- ‘payment’, in relation to an amount, includes the incurring of a liability to pay, and the crediting of, the amount;

'resident' means—

- (a) a natural person who is a resident of Australia;
- (b) a natural person whose domicile is in Australia, except where the Commissioner is satisfied that the person's permanent place of abode is outside Australia; or
- (c) a company that is incorporated in Australia, or, not being incorporated in Australia, carries on business or holds property in Australia;

'scheme' means—

- (a) an agreement, arrangement, understanding, promise or undertaking, whether formal or informal, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or
- (b) a scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

“(9) For the purposes of this section, a scheme shall be taken to be entered into or carried out for a particular purpose if the person who has, or one or more of the persons who have, entered into or carried out the scheme or a part of the scheme did so for that purpose or for purposes including that purpose.”.

Issue of certificates

6. Section 11 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (3), (3A) and (4) and substituting the following sub-sections:

“(1) Subject to this section, a person who is a manufacturer or a wholesale merchant is required to be registered.

“(2) A person who, by virtue of this section or section 16, is required to be registered shall apply to the Commissioner for registration.

“(3) An application made pursuant to sub-section (2) shall—

- (a) be in a form provided by the Commissioner;
- (b) unless the Commissioner otherwise directs, be lodged with a Deputy Commissioner exercising powers or performing functions in relation to—
 - (i) that part of a State in which the person has his principal place of business as a manufacturer or wholesale merchant; and
 - (ii) each other State (if any) in which the person has a place of business as a manufacturer or wholesale merchant;
- (c) contain such particulars as the form requires;
- (d) contain such further particulars (if any) as the Commissioner requires; and
- (e) be lodged within the time prescribed by sub-section (3F).

“(3A) Subject to sub-sections (3B) and (3C), where the Commissioner is satisfied that a person who has made an application in accordance with sub-sections (2) and (3) is a manufacturer or a wholesale merchant, the Commissioner shall register the person.

“(3B) Where a person makes an application for registration and—

(a) the application—

(i) is false or misleading in a material particular; or

(ii) omits any matter or thing without which the application is misleading in a material particular; or

(b) the person, being required to give security under sub-section 11 (8A), refuses or fails to do so,

the Commissioner may, in the Commissioner’s discretion, by notice in writing served on the person as prescribed, refuse to register the person, but the person does not thereby cease to be required to be registered.

“(3C) Subject to sub-sections (3D) and (3E), where a person is a manufacturer or a wholesale merchant and engages only in transactions, acts or operations in respect of which sales tax is not payable by the person—

(a) the Commissioner may, in the Commissioner’s discretion, dispense with, or revoke, the registration of the person; and

(b) if the Commissioner does so at a particular time, the person is, as from that time, not required to be registered.

“(3D) Where—

(a) the Commissioner, in pursuance of sub-section (3C), has dispensed with, or revoked, the registration of a person; and

(b) at a particular time, the person commences, or would, if required to be registered, be taken for the purposes of this Act to commence, to engage in transactions, acts or operations in respect of which sales tax is payable by the person,

the person is, as from that time, required to be registered.

“(3E) Without limiting the generality of sub-section (3D), where—

(a) the Commissioner, in pursuance of sub-section (3C), has dispensed with, or revoked, the registration of a person; and

(b) the person is a wholesale merchant by virtue of sub-paragraph (a) (ii) or (iii), or paragraph (b), of the definition of ‘Wholesale Merchant’ in sub-section 3 (1),

the Commissioner may, at any time while the person continues to be a wholesale merchant by virtue of any provision referred to in paragraph (b) of this sub-section, by notice in writing served on the person as prescribed, require the person to become registered within a specified period, and the person is, as from the time of service of the notice, required to be registered.

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“(3F) Where, on a particular day, a person becomes required to be registered, the application for registration shall be lodged under sub-section (3)—

- (a) where sub-section (1) applies—within 28 days after that day;
- (b) where sub-section (3D) applies—within 14 days after that day;
- (c) where sub-section (3E) applies—within the period specified in the notice served on the person under that sub-section; or
- (d) where sub-section 16 (3) applies—within 14 days after the service on the person of a notice under sub-section 16 (4).

“(4) On the registration of a person, the Commissioner shall issue to the person a certificate, and, subject to this Act, the certificate remains in force until—

- (a) in the case of a natural person—the death or bankruptcy of the person;
 - (b) in the case of a person other than a natural person—dissolution of the person;
 - (c) revocation of the person’s registration; or
 - (d) cancellation of the certificate.”;
- (b) by omitting from sub-section (4B) all the words after “subject to” and substituting “this Act, shall be deemed to be in force after the commencement of this sub-section until—
- (a) in the case of a natural person—the death or bankruptcy of the person;
 - (b) in the case of a person other than a natural person—dissolution of the person;
 - (c) revocation of the person’s registration; or
 - (d) cancellation of the certificate”;
- (c) by omitting sub-section (8A) and substituting the following sub-section:

“(8A) Where, in the opinion of the Commissioner, it is necessary for the protection of the revenue to do so, the Commissioner may, by notice in writing served on the person as prescribed, require a registered person, or person required to be registered, to give security for compliance by that person with the conditions of any certificate issued, or to be issued, to that person under this Act, and that person shall, within 28 days after the service of the notice, give security to the satisfaction of the Commissioner, in such amount, not exceeding \$25,000, as the Commissioner considers reasonable, for compliance with the conditions of the certificate.”;

- (d) by inserting in sub-section (8B) “by a person” after “given”;
- (e) by omitting from paragraph (8B) (a) “registered”;
- (f) by omitting sub-section (9);
- (g) by adding at the end of sub-section (10) “or Territory”;

(h) by omitting from sub-section (11) “registered” (wherever occurring); and

(j) by adding at the end the following sub-section:

“(13) For the purposes of this section (except sub-section (10))—

(a) the Australian Capital Territory shall be deemed to be part of New South Wales; and

(b) the Northern Territory shall be deemed to be a State.”.

Quotation of certificates

7. Section 12 of the Principal Act is amended by inserting in sub-section (1) “, subject to sub-section 15A (6),” after “shall”.

Wrongful quotation of certificate

8. Section 15 of the Principal Act is amended by omitting “the sale value of which is subject to tax under this Act”.

9. After section 15 of the Principal Act the following section is inserted:

Prohibition of quotation of certificate

“15A. (1) Where, for the purpose, or for purposes including the purpose, of defeating the purposes of this Act, a registered person—

(a) quotes any certificate; or

(b) directly or indirectly, aids, abets, counsels or procures another person to quote any certificate,

otherwise than in accordance with sub-section 12 (1), the Commissioner may, by notice in writing served on the registered person as prescribed, prohibit the person from quoting a certificate during the period specified in the notice.

“(2) The service on a person of a notice under sub-section (1) does not prevent the service at any time of a further notice or further notices on that person under that sub-section.

“(3) A registered person shall, within 7 days after service on him of a notice under sub-section (1), surrender his certificate to the Commissioner.

Penalty: \$500.

“(4) The Commissioner shall cancel a certificate surrendered under sub-section (3).

“(5) A person served with a notice or notices under sub-section (1) may apply, in a form approved by the Commissioner, for the issue of a fresh certificate, and the Commissioner shall, if satisfied that the person—

(a) has not ceased to be required to be registered; and

(b) is no longer prohibited from quoting a certificate, issue a certificate accordingly.

“(6) A person shall not knowingly contravene a prohibition contained in a notice served under sub-section (1).

Penalty: \$2,000.

“(7) Where—

- (a) a registered person quotes his certificate in relation to a transaction, act or operation in respect of goods;
- (b) after the person quotes his certificate and before the transaction, act or operation is completed, the person receives a notice under sub-section (1); and
- (c) the person does not forthwith notify the other party or parties to the transaction, act or operation that he has received the notice,

the person is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000.

“(8) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of—

- (a) quoting a certificate in relation to a transaction, act or operation in respect of goods in contravention of a prohibition contained in a notice served under sub-section (1); or
- (b) an offence against sub-section (7) in relation to a transaction, act or operation in respect of goods,

the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding double the amount of—

- (c) if sales tax was payable in respect of the transaction, act or operation—that tax; or
- (d) if no sales tax was so payable—the tax that would have been payable if a certificate had not been quoted in respect of the transaction, act or operation.

“(9) A person whose certificate is surrendered and cancelled under this section continues to be bound by the conditions subject to which the certificate was issued.”.

10. Section 16 of the Principal Act is repealed and the following sections are substituted:

Revocation of registration

“16. (1) A registered person shall, within 7 days after he becomes a person who is neither a manufacturer nor a wholesale merchant, lodge with the Commissioner a notice in writing stating that fact.

Penalty: \$500.

“(2) Where at any time it comes to the knowledge of the Commissioner that a registered person is neither a manufacturer nor a wholesale merchant, the Commissioner shall revoke the person’s registration.

“(3) Where a person is a registered person and—

- (a) at the time when the person’s application for registration was made, the application—
 - (i) was false or misleading in a material particular; or
 - (ii) omitted any matter or thing without which the application was misleading in a material particular; or
- (b) the person, being required to give security under sub-section 11 (8A) or (11), refuses or fails to do so,

the Commissioner may, in the Commissioner’s discretion, revoke the person’s registration, but the person does not thereby cease to be required to be registered.

“(4) Where the Commissioner, under sub-section 11 (3C) or sub-section (1) or (3) of this section, revokes a person’s registration—

- (a) the Commissioner—
 - (i) shall serve on the person, as prescribed, notice in writing of the revocation; and
 - (ii) shall be taken, for the purposes of this Act, to revoke the registration at the time when the notice is served on the person; and
- (b) the person shall, within 7 days after that time, surrender his certificate to the Commissioner.

“(5) The Commissioner shall cancel a certificate surrendered under sub-section (4).

“(6) A person who contravenes paragraph (4) (b) is guilty of an offence punishable on conviction by a fine not exceeding \$500.

Publication of de-registrations, &c.

“16A. The Commissioner may publish by notice in writing in the *Gazette*, or provide to any registered person, information as to—

- (a) certificates relating to registrations that have been revoked under sections 11 and 16; and
- (b) certificates in respect of which notices under section 15A are in force.”.

Goods deemed to be sold

11. (1) Section 17A of the Principal Act is amended by omitting from paragraph (1) (a) “under an agreement entered into after 20 September 1978”.

(2) The amendment made by sub-section (1) applies in relation to goods the manufacture of which commenced on or after 21 August 1981.

Sale value of goods

12. (1) Section 18 of the Principal Act is amended by omitting from sub-paragraph (1A) (b) (i) “, under an agreement to manufacture the goods entered into after 20 September 1978,”.

(2) The amendment made by sub-section (1) applies in relation to goods the manufacture of which commenced on or after 21 August 1981.

Refunds and remission of tax

13. Section 26 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:

“(3A) Where the Commissioner is satisfied that—

- (a) goods have been sold to a registered person who, but for the operation of sub-section 3 (3), would have been taken to have quoted his certificate in respect of the purchase in accordance with sub-section 12 (1); and
- (b) by reason of the operation of sub-section 3 (3), the person was deemed not to have quoted his certificate in respect of the purchase,

then—

- (c) if the Commissioner is satisfied that—
 - (i) tax is payable in respect of the purchase but has not been paid; and
 - (ii) the tax has not been wholly or partly included in the price for which the goods were purchased by the registered person or, if so included, has been refunded to the registered person,

the Commissioner may remit the tax;

- (d) if the Commissioner is satisfied that tax has been paid in respect of the purchase and has not been wholly or partly included in the price for which the goods were purchased by the registered person—the Commissioner may pay to the person who paid the tax an amount equal to the tax so paid; or
- (e) if the Commissioner is satisfied that—
 - (i) tax has been paid in respect of the purchase;
 - (ii) the tax has been wholly or partly included in the price for which the goods were purchased by the registered person; and
 - (iii) the tax has not been passed on by the registered person to some other person or, if passed on to some other person, has been refunded to that other person,

the Commissioner may pay to the registered person an amount equal to the tax so paid and included.”.

Heading to Part VII

14. The heading to Part VII of the Principal Act is repealed and the following heading is substituted:

“PART VII—OBJECTIONS, APPEALS AND REVIEWS”.

Objections

15. Section 41 of the Principal Act is amended by omitting from sub-section (4) “by post” and substituting “, as prescribed,”.

16. After section 44A of the Principal Act the following section is inserted in Part VII:

Review of certain decisions

“44B. (1) In this section—

‘decision’ has the same meaning as in the *Administrative Appeals Tribunal Act 1975*;

‘reviewable decision’ means a decision made under sub-section 11 (3B), (8A) or (11), 15A (1) or (5) or 16 (3).

“(2) A person affected by a reviewable decision may, within 42 days after notice of the decision is served on the person, post to or lodge with the Commissioner an objection in writing against the decision stating fully and in detail the grounds for the objection.

“(3) The Commissioner shall consider the objection, and affirm or revoke the decision or vary the decision in such manner as the Commissioner thinks fit.

“(4) The Commissioner shall give to the objector written notice of the decision on the objection.

“(5) Application may be made to the Administrative Appeals Tribunal for review of a reviewable decision that has been affirmed or varied under sub-section (3).

“(6) Where written notice of the making of a reviewable decision is given to a person whose interests are affected by the decision, the notice shall include a statement to the effect that a person affected by the decision—

(a) may object against the decision; and

(b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with a decision under sub-section (3) affirming or varying the reviewable decision, make application to the Administrative Appeals Tribunal for review of the reviewable decision.

“(7) Where the Commissioner makes a decision under sub-section (3) affirming or varying a reviewable decision, the notice given under sub-section (4) shall include a statement to the effect that a person affected by the decision as so affirmed or varied may, subject to the *Administrative Appeals Tribunal*

Act 1975, make application to the Administrative Appeals Tribunal for review of the reviewable decision.

“(8) Any failure to comply with the requirements of sub-section (6) or (7) in relation to a decision does not affect the validity of the decision.”.

Access to books, &c.

17. Section 71 of the Principal Act is repealed.

**PART III—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 2) 1930**

Principal Act

18. The *Sales Tax Assessment Act (No. 2) 1930*² is in this Part referred to as the Principal Act.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

19. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”; and
- (b) by inserting in sub-section (1) “, sub-section 26 (3A)” after “25A”.

**PART IV—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 3) 1930**

Principal Act

20. The *Sales Tax Assessment Act (No. 3) 1930*³ is in this Part referred to as the Principal Act.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

21. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”; and
- (b) by inserting in sub-section (1) “, sub-section 26 (3A)” after “25A”.

**PART V—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 4) 1930**

Principal Act

22. The *Sales Tax Assessment Act (No. 4) 1930*⁴ is in this Part referred to as the Principal Act.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

23. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”; and

(b) by inserting in sub-section (1) “, sub-section 26 (3A)” after “25A”.

**PART VI—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 5) 1930**

Principal Act

24. The *Sales Tax Assessment Act (No. 5) 1930*^s is in this Part referred to as the Principal Act.

Title

25. The title of the Principal Act is amended by inserting “and Entered for Home Consumption” after “Australia”.

26. Section 2A of the Principal Act is repealed and the following sections are substituted:

Interpretation

“2A. In this Act, unless the contrary intention appears—

‘Collector’ has the same meaning as it would have if the Customs Act were incorporated and read as one with this Act;

‘Comptroller’ means the Comptroller-General of Customs;

‘Customs’ has the same meaning as in the Customs Act;

‘Customs Act’ means the *Customs Act 1901*;

‘customs duty’ means duty of Customs—

(a) imposed by the *Customs Tariff Act 1982*;

(b) demanded or collected in pursuance of—

(i) a Customs Tariff Proposal introduced into the House of Representatives; or

(ii) a notice published in the *Gazette* in accordance with section 273EA of the Customs Act; or

(c) imposed by the *Customs Tariff (Anti-Dumping) Act 1975*;

‘import’ means import into Australia;

‘owner’—

(a) in relation to any goods, includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over, the goods; and

(b) in relation to goods, being a ship or aircraft, includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship or aircraft.

Entry for home consumption

“2B. (1) For the purposes of this Act, a person enters goods for home consumption at a particular time if—

- (a) an entry for home consumption in respect of the goods is given by the person in accordance with section 36 of the Customs Act; or
- (b) an entry for home consumption in respect of the goods having been given by the person under section 37 of that Act, the goods are, by virtue of that section, taken to be entered for home consumption.

“(2) Where, at a particular time—

- (a) the delivery of goods for home consumption is approved in pursuance of section 71A of the Customs Act;
- (b) goods are delivered for home consumption in pursuance of permission granted under sub-section 71B (1) of that Act, not being goods that, before delivery, are forfeited by virtue of paragraph 229 (1) (g) of that Act;
- (c) imported goods are sold in pursuance of section 72, 87, 96, 111A, 206 or 207 of that Act;
- (d) imported goods are delivered to a person—
 - (i) in pursuance of—
 - (A) an authority given under sub-section 208 (1) or (2) of that Act; or
 - (B) an order of a court made in an action for condemnation or recovery of the goods or in an action for a declaration that the goods are not forfeited under that Act; or
 - (ii) being goods that have been seized under section 203 of that Act—on the basis that the goods are not forfeited goods;
- (e) the delivery of imported goods to the owner of the goods is authorized under sub-section 209 (6) of that Act;
- (f) a demand is made in pursuance of section 35A or 149 of that Act in relation to imported goods;
- (g) goods are deemed, by virtue of sub-section 96A (12) of that Act, to be entered for home consumption by the proprietor of a duty free shop;
- (h) imported goods are taken out of a warehouse in pursuance of permission granted under sub-section 97 (1) of that Act; or
- (j) goods are delivered in pursuance of permission given under section 6B of this Act,

the person—

- (k) where delivery of goods is approved, or goods are delivered or authorized to be delivered, as described in paragraph (a), (b), (d), (e) or (j), as the case may be—to whom the goods are, or are to be, delivered;
- (m) where the goods are sold as described in paragraph (c)—who owned the goods immediately before the sale;

- (n) where a demand is made in relation to the goods as described in paragraph (f)—to whom the demand is made;
- (o) where paragraph (g) applies—by whom the goods are so deemed to be entered; or
- (p) where paragraph (h) applies—to whom the permission referred to in that paragraph is given,

shall be deemed, for the purposes of this Act, to enter the goods for home consumption at that time.

“(3) Where—

- (a) but for this sub-section, goods would, by virtue of sub-section (1), be taken to be entered for home consumption by a person at a particular time; and
- (b) at a later time—
 - (i) the entry referred to in that sub-section given under section 36 or 37 of the Customs Act is withdrawn under sub-section 38 (1) or (2) of that Act; or
 - (ii) the person does not withdraw the entry as described in sub-paragraph (i), but is taken to enter the goods for home consumption by virtue of sub-section (2),

the goods shall, notwithstanding sub-section (1) of this section, but subject to sub-section (5), be taken not to have been entered for home consumption at the time referred to in paragraph (a).

“(4) Where—

- (a) at a particular time, goods are taken to be entered for home consumption by virtue of sub-section (2); and
- (b) at a later time, a person would, but for this sub-section, be taken to enter the goods for home consumption by virtue of sub-section (1),

the second-mentioned person shall, notwithstanding sub-section (1), be taken not to enter the goods for home consumption at that later time.

“(5) Where—

- (a) a person is taken to have entered goods for home consumption by virtue of sub-section (1);
- (b) the entry referred to in that sub-section given under section 36 or 37 of the Customs Act is later withdrawn under sub-section 38 (1) or (2) of that Act;
- (c) the goods have subsequently been entered for home consumption in the manner referred to in sub-section (1), whether or not they were entered for warehousing after the withdrawal and before they were subsequently entered for home consumption; and
- (d) but for this sub-section, the rate of sales tax applicable on the sale value of the goods would, by reason of a reduction of a rate of tax that

occurred before the withdrawal, be less than the rate of tax that would have been applicable to the goods if there had been no withdrawal, the goods shall, notwithstanding the withdrawal, be taken to have been entered for home consumption at the time when the goods were entered for home consumption by virtue of the entry referred to in paragraph (a).”.

Sales tax

27. Section 3 of the Principal Act is amended by omitting “goods imported into Australia” and substituting “imported goods entered for home consumption”.

28. (1) Sections 4 and 5 of the Principal Act are repealed and the following sections are substituted:

Sale value of imported goods

“4. (1) For the purposes of this Act, the sale value of imported goods that are entered for home consumption by—

- (a) an unregistered person; or
- (b) a registered person who does not quote his certificate in respect of the entry,

shall be an amount equal to 120% of the sum of—

- (c) the customs value of the goods as determined in accordance with Division 2 of Part VIII of the Customs Act; and
- (d) the amount of customs duty (if any) that is, or may become, payable in respect of the goods.

“(2) Where, under section 36 or 37 of the Customs Act, an entry is given in respect of goods the customs value of which is required to be ascertained for the purposes of sub-section (1), then, pending the ascertainment of that value for the purposes of that Act, the amount set out in that entry as the customs value shall be taken to be the customs value for the purposes of that sub-section.

“(3) Notwithstanding sub-section (1), where, at a particular time, imported goods are entered for home consumption (which entry is in this sub-section referred to as the ‘re-importation’), being goods that, prior to that time, had been exported from Australia for repair after having been entered for home consumption by an unregistered person or by a registered person who did not quote his certificate in respect of the entry of the goods (which entry is in this sub-section referred to as ‘the first entry’), then, unless by reason of section 6A or 6B sales tax was not payable on the sale value of the goods in respect of the first entry, the sale value of the goods in relation to the re-importation is an amount equal to—

- (a) where an amount of customs duty has or will become payable in respect of the re-importation and is, or is to be, calculated solely by reference to the value of the repairs—the sum of—
 - (i) the value of the repairs for the purpose of calculating the amount of customs duty; and

- (ii) the amount of customs duty;
- (b) where an amount of customs duty (in this paragraph referred to as 'the duty') has or will become payable in respect of the re-importation and is not, or will not be, calculated solely by reference to the value of the repairs—the sum of—
 - (i) the amount (in this paragraph referred to as the 'repair value') that, in the opinion of the Commissioner, would have been the value of the repairs for the purpose of calculating an amount of customs duty payable in respect of the re-importation if that last-mentioned amount had been calculated solely by reference to the value of the repairs; and
 - (ii) the amount ascertained in accordance with the formula—

$$\frac{AB}{C}$$

where—

- A** is the repair value;
 - B** is the duty; and
 - C** is the value of the goods for the purposes of calculating the duty; or
- (c) where an amount of customs duty has not, and will not, become payable in respect of the re-importation—the amount that, in the opinion of the Commissioner, would have been the value of the repairs for the purpose of calculating an amount of customs duty in respect of the re-importation if customs duty had become payable in respect of the re-importation and had been calculated solely by reference to the value of the repairs.

“(4) Where goods are imported subject to a payment of royalty, the sale value of the goods otherwise determined under this section shall be deemed to be increased by such amount as, in the opinion of the Commissioner, is the value of the royalty.

Liability for tax

“5. (1) Sales tax on goods the sale value of which is specified in section 4 shall be paid—

- (a) where goods are taken to be entered for home consumption by virtue of sub-section 2B (1)—by the person who so enters the goods; or
- (b) where the goods are taken to be entered for home consumption by virtue of sub-section 2B (2)—by the person who is, by virtue of that sub-section, taken to have so entered the goods.

“(2) Where 2 or more persons are taken by virtue of paragraph 2B (2) (m) to have entered particular goods for home consumption, those persons are, for the purposes of paragraph (1) (b), jointly and severally liable to pay the tax in respect of those goods.

“(3) Where 2 or more persons are jointly and severally liable to pay an amount of tax by virtue of sub-section (2) and one of those persons has paid any of that amount, the person may recover in a court of competent jurisdiction, by way of contribution and as a debt, from the other person or any of the other persons, as the case may be, such part of the amount paid as the court considers just and equitable.

No tax payable on entry of certain goods

“5A. (1) Where—

(a) a person becomes liable to pay tax under the *Sales Tax Assessment Act (No. 6) 1930* or the *Sales Tax Assessment Act (No. 7) 1930* in respect of the sale of goods; and

(b) the purchaser subsequently enters the goods for home consumption, then, notwithstanding anything contained in section 5, sales tax is not payable under this Act in respect of the entry.

“(2) Where goods that are owned by the Crown by reason of the forfeiture of the goods under the Customs Act are deemed to be entered for home consumption by virtue of the sale of the goods in the manner described in paragraph 2B (2) (c), then, notwithstanding anything contained in section 5, sales tax is not payable under this Act in respect of the entry.”.

(2) Until the commencement of sub-section (1), section 4 of the Principal Act has effect as if the following sub-section were added at the end:

“(5) Where goods are imported subject to a payment of royalty, the sale value of the goods otherwise determined under this section shall be deemed to be increased by such amount as, in the opinion of the Commissioner, is the value of the royalty.”.

Exemptions

29. Section 6 of the Principal Act is amended—

(a) by omitting “the person specified in that section” and substituting “a person liable to pay sales tax under that section”; and

(b) by omitting “1935-1973” and substituting “1935”.

Delivery of goods on giving security or undertaking for payment of tax

30. Section 6A of the Principal Act is amended—

(a) by omitting “the Collector of Customs” (first and third occurring) and substituting “a Collector”;

(b) by omitting “Collector of Customs” (second and last occurring) and substituting “Collector”;

(c) by omitting from sub-section (1) “importing the goods” and substituting “who enters the goods for home consumption”;

(d) by omitting from paragraph (3) (b) “the Minister for Industry and Commerce, or a person to whom that Minister has delegated powers under section 162 of the *Customs Act 1901-1953*” and substituting “a

person who has, under sub-section 162 (3) of the Customs Act, power to allow a further period for the purposes of that sub-section”; and

- (e) by omitting from sub-section (5) “*Customs Act 1901-1953*” and substituting “Customs Act”.

Delivery of goods on giving general security or undertaking for payment of tax

31. Section 6B of the Principal Act is amended—

- (a) by omitting sub-section (3);
- (b) by omitting from paragraph (5) (b) “the Minister for Industry and Commerce, or a person to whom that Minister has delegated powers under section 162A of the *Customs Act 1901-1963*” and substituting “a person who has, under sub-section 162A (5) of the Customs Act, power to allow a further period for the purposes of that sub-section”;
- (c) by omitting from sub-section (7) “Collector of Customs” and substituting “Collector”; and
- (d) by omitting from sub-section (8) “*Customs Act 1901-1963*” and substituting “Customs Act”.

32. Section 7 of the Principal Act is repealed and the following section is substituted:

Entries

“7. Where—

- (a) goods are entered for home consumption by a person as described in sub-section 4 (1); and
- (b) the entry is of a kind referred to in sub-section 2B (1),

the person shall, at the time of the entry, lodge with a Collector, at the place at which the person is required, under section 36 or 37 of the Customs Act, to give an entry under that section, an entry for the purposes of this Act in a form approved by the Commissioner.”.

33. Section 9 of the Principal Act is repealed and the following section is substituted:

Time for payment of tax

“9. (1) Where a person is liable, under section 5, to pay an amount of sales tax on the sale value of imported goods, the amount is due and payable—

- (a) where paragraph (b) does not apply—at the time when the goods are entered for home consumption by that person; or
- (b) where the goods are taken to be entered for home consumption by virtue of paragraphs 2B (2) (g) and (o)—at the time when sub-section 96A (12) of the Customs Act applies in relation to the goods.

“(2) Notwithstanding paragraph 5 (1) (b), sales tax is not payable in respect of goods that are deemed to be entered for home consumption by virtue of the goods being taken out of a warehouse in pursuance of permission granted

under sub-section 97 (1) of the Customs Act unless the goods are not returned to the warehouse before the expiration of the period specified in the permission.

“(3) Where, before goods are entered for home consumption, an amount is paid to a Collector in respect of sales tax that may become payable under this Act on the sale value of the goods when the goods are entered for home consumption, the amount shall, when the goods are so entered, unless the amount is refunded under sub-section (4), be deemed for the purposes of this Act, if sales tax is payable under this Act in respect of the entry, to be an amount of sales tax paid on the sale value of the goods in respect of that entry.

“(4) Where a person pays an amount to a Collector in the circumstances referred to in sub-section (3), the person may, at any time before the tax in respect of which the amount was paid becomes due and payable, apply for the amount to be refunded.”.

34. After section 10 of the Principal Act the following section is inserted:

Customs may hold goods until tax paid

“10A. (1) Where—

- (a) imported goods are entered for home consumption by a person;
 - (b) the person purports to quote his certificate in respect of the entry;
 - (c) by reason of the operation of sub-section 3 (3) of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act, the person is deemed not to have quoted his certificate in respect of the entry; and
 - (d) sales tax is payable under this Act in respect of the entry of the goods,
- the goods shall not, without the authority of a Collector, be delivered for home consumption before the tax is paid.

“(2) In respect of goods to which sub-section (1) applies, an authority under section 39 of the Customs Act has effect as if it were expressed to be subject to the condition that authority for the goods to be dealt with is given under sub-section (1).”.

Refunds of tax

35. Section 11 of the Principal Act is amended—

- (a) by omitting paragraph (2A) (a) and substituting the following paragraph:

“(a) tax has been paid in respect of the entry for home consumption of imported goods by a registered person who was required to quote his certificate in respect of the entry but who refused or failed to do so; and”;

- (b) by inserting after sub-section (2A) the following sub-section:

“(2B) Where the Commissioner is satisfied that—

- (a) imported goods have been entered for home consumption by a registered person who, but for the operation of sub-section 3 (3) of the *Sales Tax Assessment Act (No. 1) 1930* as applied

by this Act, would have been taken to have quoted his certificate in respect of the entry in accordance with sub-section 12 (1) of that Act as so applied; and

- (b) by reason of the operation of sub-section 3 (3) of that Act as so applied, the person was deemed not to have quoted his certificate in respect of the entry,

then—

- (c) if the Commissioner is satisfied that—

- (i) tax is payable in respect of the entry but has not been paid; and
- (ii) the tax has not been passed on by the registered person to some other person or, if passed on to some other person, has been refunded to that other person,

the Commissioner may remit the tax; or

- (d) if the Commissioner is satisfied that—

- (i) tax has been paid in respect of the entry; and
- (ii) the tax has not been passed on by the registered person to some other person or, if passed on to some other person, has been refunded to that other person,

the Commissioner may pay to the registered person an amount equal to the tax so paid.”;

- (c) by omitting from sub-section (3) “importation of” and substituting “entry for home consumption of imported”;
- (d) by omitting from paragraph (3) (a) “1935-1973 if that Government had imported the goods” and substituting “1935 if that Government had entered the goods for home consumption”; and
- (e) by omitting from sub-section (4) “goods imported” and substituting “imported goods entered for home consumption”.

Drawback

36. Section 11A of the Principal Act is amended—

- (a) by omitting “*Customs Act 1901-1930*” (wherever occurring) and substituting “*Customs Act*”;
- (b) by omitting “import duty” (wherever occurring) and substituting “customs duty”; and
- (c) by omitting from sub-section (2) “the Collector of Customs” and substituting “a Collector”.

Refunds of tax on rejected goods

37. Section 11B of the Principal Act is amended—

- (a) by inserting in paragraph (a) “and entered for home consumption” after “imported”;
- (b) by omitting from paragraph (d) “duty of Customs” (wherever occurring) and substituting “customs duty”; and

- (c) by omitting from sub-paragraph (d) (ii) “importation of the goods” (wherever occurring) and substituting “entry of the goods for home consumption”.

38. After section 11B of the Principal Act the following section is inserted in Part IV:

Proceeds of Collector’s sales

“11C. Where—

- (a) section 276 of the Customs Act applies in relation to a sale of imported goods by a Collector; and
- (b) by reason of the sale, tax becomes payable under this Act in relation to the goods,

then, notwithstanding section 277 of the Customs Act, the proceeds of the sale shall be applied in payment of the sales tax after the payment of the expenses of the sale and of any customs duty payable in respect of the goods, but before payment in respect of any other matter.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

39. Section 12 of the Principal Act is amended by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”.

**PART VII—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 6) 1930**

Principal Act

40. The *Sales Tax Assessment Act (No. 6) 1930*⁶ is in this Part referred to as the Principal Act.

Sale value of goods

41. Section 4 of the Principal Act is amended by omitting from sub-section (1A) “on the Customs entry relating to those goods” and substituting “in respect of the entry of those goods for home consumption”.

Liability for tax

42. Section 5 of the Principal Act is amended by omitting from sub-section (2) “on the Customs entry relating to the goods” and substituting “in respect of the entry of the goods for home consumption”.

43. After section 6 of the Principal Act the following section is inserted in Part II:

Tax not payable on certain goods

“6A. Where—

- (a) but for this section, sales tax would be payable under this Act in respect of a sale of goods; and

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- (b) the sale is, under sub-section 2B (2) of the *Sales Tax Assessment Act (No. 5) 1930*, deemed to be an entry of the goods for home consumption for the purposes of that Act,

then, notwithstanding anything contained in section 5, sales tax is not payable under this Act in respect of the sale.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

44. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”; and
(b) by inserting in sub-section (1) “, sub-section 26 (3A)” after “25A”.

**PART VIII—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 7) 1930**

Principal Act

45. The *Sales Tax Assessment Act (No. 7) 1930*⁷ is in this Part referred to as the Principal Act.

46. After section 6 of the Principal Act the following section is inserted in Part II:

Tax not payable on certain goods

“6A. Where—

- (a) but for this section, sales tax would be payable under this Act in respect of a sale of goods; and
(b) the sale is, under sub-section 2B (2) of the *Sales Tax Assessment Act (No. 5) 1930*, deemed to be an entry of the goods for home consumption for the purposes of that Act,

then, notwithstanding anything contained in section 5, sales tax is not payable under this Act in respect of the sale.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

47. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”; and
(b) by inserting in sub-section (1) “, sub-section 26 (3A)” after “25A”.

**PART IX—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 8) 1930**

Principal Act

48. The *Sales Tax Assessment Act (No. 8) 1930*⁸ is in this Part referred to as the Principal Act.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

49. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”; and
- (b) by inserting in sub-section (1) “, sub-section 26 (3A)” after “25A”.

**PART X—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 9) 1930**

Principal Act

50. The *Sales Tax Assessment Act (No. 9) 1930*⁹ is in this Part referred to as the Principal Act.

Sale value of goods

51. Section 4 of the Principal Act is amended by adding at the end the following sub-section:

“(4) Where goods are leased subject to the payment of a royalty, the sale value of the goods otherwise determined under this section shall be deemed to be increased by such amount as, in the opinion of the Commissioner, is the value of the royalty.”.

Refunds of tax

52. Section 11 of the Principal Act is amended by inserting after sub-section (1A) the following sub-sections:

“(1B) Where the Commissioner is satisfied that—

- (a) goods have been leased to a registered person who, but for the operation of sub-section 3 (3) of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act, would have been taken to have quoted his certificate in respect of the lease in accordance with sub-section 12 (1) of that Act as so applied; and
- (b) by reason of the operation of sub-section 3 (3) of that Act as so applied, the registered person was deemed not to have quoted his certificate in respect of the lease,

then—

(c) if the Commissioner is satisfied that—

- (i) tax is payable in respect of the lease but has not been paid; and
- (ii) the tax has not been wholly or partly passed on to the registered person or, if so passed on, has been refunded to the registered person,

the Commissioner may remit the tax;

- (d) if the Commissioner is satisfied that tax has been paid in respect of the lease and has not been wholly or partly passed on to the registered person—the Commissioner may pay to the person who paid the tax an amount equal to the tax so paid; or

(e) if the Commissioner is satisfied that—

- (i) the tax has been wholly or partly passed on to the registered person; and
- (ii) the tax has not been passed on by the registered person to some other person or, if passed on to some other person, has been refunded to that other person,

the Commissioner may pay to the registered person an amount equal to the tax so paid and passed on to him.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

53. Section 12 of the Principal Act is amended by omitting from sub-section (1) “section 3” and substituting “sections 3 and 3A”.

**PART XI—AMENDMENT OF SALES TAX ASSESSMENT (No. 1)
AMENDMENT ACT 1978**

Principal Act

54. The *Sales Tax Assessment (No. 1) Amendment Act 1978*¹⁰ is in this Part referred to as the Principal Act.

Goods deemed to be sold

55. Section 4 of the Principal Act is amended by adding at the end the following sub-section:

“(3) Sub-section (2) does not apply in relation to goods manufactured under an agreement referred to in that sub-section where the manufacture of the goods commenced after 20 August 1981.”.

Sale value of goods

56. Section 5 of the Principal Act is amended by adding at the end the following sub-section:

“(3) Sub-section (2) does not apply in relation to goods manufactured under an agreement referred to in that sub-section where the manufacture of the goods commenced after 20 August 1981.”.

**PART XII—AMENDMENT OF SALES TAX PROCEDURE ACT
1934**

Principal Act

57. The *Sales Tax Procedure Act 1934*¹¹ is in this Part referred to as the Principal Act.

No refund of overpayment after 3 years

58. Section 12C of the Principal Act is amended—

(a) by inserting after paragraph (2) (c) the following paragraph:

“(ca) sub-section 26 (3A) of the *Sales Tax Assessment Act (No. 1) 1930*, or that sub-section as applied by any other Sales Tax Assessment Act;”;

(b) by inserting in paragraph (2) (f) “, (2B)” after “(2)”;

(c) by inserting after paragraph (2) (h) the following paragraph:

“(ha) sub-section 11 (1B) of the *Sales Tax Assessment Act (No. 9) 1930*;”;

(d) by omitting from the end of paragraph (2) (i) “or”; and

(e) by inserting after paragraph (2) (i) the following paragraphs:

“(ia) sub-section 11 (2) of the *Sales Tax Assessment Act (No. 10) 1985* to the extent that a refund shall be made under that sub-section in pursuance of an amount being refunded or refundable under any provision referred to in paragraph (c), (d), (e), (f), (g), (h), (ha) or (i);

“(ib) sub-section 11 (3) of the *Sales Tax Assessment Act (No. 10) 1985*; or”.

59. After section 12D of the Principal Act the following section is inserted:

Access to premises, &c.

“12E. (1) For the purposes of a Sales Tax Assessment Act, an officer authorized in writing by the Commissioner to exercise powers under this section—

(a) may, at all reasonable times, enter and remain on any land or premises;

(b) is entitled to full and free access at all reasonable times to any documents or goods;

(c) may inspect, examine, make copies of, or take extracts from, any documents; and

(d) may inspect, examine, count, measure, weigh, gauge, test or analyse any goods and, to that end, remove or take samples of any goods.

“(2) An officer is not entitled to enter or remain on any land or premises in pursuance of this section if; on being requested by the occupier of the land or premises for proof of authority, the officer does not produce an authority in writing signed by the Commissioner stating that the officer is authorized to exercise powers under this section.

“(3) The occupier of land or premises entered or proposed to be entered by an officer under sub-section (1) shall provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.

Penalty: \$1,000.

“(4) In this section, ‘goods’ includes—

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

PART XIII—MISCELLANEOUS

Transitional

60. (1) Where—

- (a) by virtue of the amendment of the Assessment Act made by sub-section 4 (2) or the amendments of the *Sales Tax Assessment (No. 1) Amendment Act 1978* made by sections 55 and 56, a person is deemed to have become a manufacturer before the prescribed day; and
- (b) if this Act had not been enacted, the person would not, immediately before that day, have been a person required to be registered,

paragraph 11 (3F) (a) of the Assessment Act as amended by this Act applies in relation to the person as if the words “within 28 days after that day” were omitted and the words “within 28 days after the date of commencement of this sub-section” were substituted.

(2) Anything done under—

- (a) a provision of section 11 of the Assessment Act that is repealed by section 6 of this Act; or
- (b) regulations made for the purposes of such a provision,

has effect in relation to a time after the repeal as if it had been done under the corresponding provision substituted by this Act or under regulations made for the purposes of a provision so substituted.

(3) Sub-section 11 (3) of the Assessment Act as amended by section 6 of this Act does not apply in relation to applications for registration made before the prescribed day.

(4) An act or omission that occurred before the prescribed day shall not be taken to be, or to have been, an offence against an Act as amended by this Act if it was not an offence at the time when it occurred.

(5) Where—

- (a) an amount of sales tax is payable under a sales tax law in respect of a dealing with goods by a person that occurred before the prescribed day; and
- (b) the whole or part of that amount would not have been payable if—
 - (i) the Assessment Act had not been amended by sub-sections 4 (2), 11 (1) and 12 (1); or
 - (ii) the *Sales Tax Assessment (No. 1) Amendment Act 1978* had not been amended by sections 55 and 56,

then—

- (c) the prescribed provision of the sales tax law apply in relation to the whole or that part, as the case may be, of the amount; and
- (d) sections 5 and 12B of the *Sales Tax Procedure Act 1934* apply in relation to the dealing,

as if the dealing occurred in the month in which this Act receives the Royal Assent.

(6) Where, before the prescribed day, sales tax was imposed by section 3 of the *Sales Tax Act (No. 5) 1930* on the sale value of any goods, the *Sales Tax Assessment Act (No. 5) 1930* continues to apply in relation to those goods as if Part VI of this Act had not been enacted.

(7) A reference in this section to a dealing with goods by a person shall be read as a reference to the person—

- (a) selling the goods or being deemed to sell the goods;
- (b) treating the goods as stock for sale by retail; or
- (c) applying the goods to the person's own use.

(8) In this section—

“Assessment Act” means the *Sales Tax Assessment Act (No. 1) 1930*;

“prescribed day” means the day on which this Act receives the Royal Assent;

“prescribed provision” means section 21 of the Assessment Act, or section 9 of any other sales tax law, as the case requires;

“sales tax law” means—

- (a) the Assessment Act;
- (b) the *Sales Tax Assessment Act (No. 2) 1930*;
- (c) the *Sales Tax Assessment Act (No. 3) 1930*; or
- (d) the *Sales Tax Assessment Act (No. 4) 1930*,

as the case requires.

Amendment of various laws

61. The Acts specified in the Schedule are amended as set out in the Schedule.

SCHEDULE

AMENDMENT OF VARIOUS LAWS

Administrative Decisions (Judicial Review) Act 1977

Schedule 1—

Omit from paragraph (e)—

“Sales Tax Assessment Act (No. 1) 1930
Sales Tax Assessment Act (No. 2) 1930
Sales Tax Assessment Act (No. 3) 1930
Sales Tax Assessment Act (No. 4) 1930
Sales Tax Assessment Act (No. 5) 1930
Sales Tax Assessment Act (No. 6) 1930
Sales Tax Assessment Act (No. 7) 1930
Sales Tax Assessment Act (No. 8) 1930
Sales Tax Assessment Act (No. 9) 1930”,

substitute “Acts providing for the assessment of sales tax”.

Crimes (Taxation Offences) Act 1980

Sub-section 3 (1)—

Omit the definition of “Sales Tax Assessment Acts”, substitute the following definition:

“ ‘Sales Tax Assessment Acts’ means—

- (a) the Acts providing for the assessment of sales tax; and
- (b) the *Sales Tax Procedure Act 1934*;”.

Income Tax Assessment Act 1936

Sub-section 215 (3D)—

Omit paragraph (b), substitute the following paragraph:

“(b) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by any other Act providing for the assessment of sales tax;”.

Pay-roll Tax Assessment Act 1941

Sub-section 30 (3C)—

Omit paragraph (b), substitute the following paragraph:

“(b) tax assessed under an Act providing for the assessment of sales tax;”.

Pay-roll Tax (Territories) Assessment Act 1971

Sub-section 30 (3C)—

Omit paragraph (b), substitute the following paragraph:

“(b) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by any other Act providing for the assessment of sales tax;”.

SCHEDULE—continued
Sales Tax Assessment Act (No. 1) 1930

Sub-section 32 (2D)—

Omit paragraph (c), substitute the following paragraph:

“(c) tax within the meaning of sub-section (2) of this section as that sub-section is applied by any other Act providing for the assessment of sales tax;”.

Sales Tax Procedure Act 1934

Section 3—

Omit the definition of “Sales Tax Assessment Act”, substitute the following definition:

“‘Sales Tax Assessment Act’ means an Act providing for the assessment of sales tax;”.

States (Tax Sharing and Health Grants) Act 1981

Schedule 1—

Omit “*Sales Tax Assessment Acts (Nos. 1-9) 1930*”, substitute “the Acts providing for the assessment of sales tax”.

Stevedoring Industry Charge Assessment Act 1947

Sub-section 27 (3D)—

Omit paragraph (c), substitute the following paragraph:

“(c) tax assessed under an Act providing for the assessment of sales tax;”.

Taxation Administration Act 1953

Sub-section 8J (2)—

Omit paragraph (n), substitute the following paragraph:

“(n) sub-section 23 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by any other Act providing for the assessment of sales tax);”.

Sub-section 8ZE (3)—

Omit paragraph (g), substitute the following paragraph:

“(g) section 45 of the *Sales Tax Assessment Act (No. 1) 1930* (including that section as applied by any other Act providing for the assessment of sales tax);”.

Taxation (Interest on Overpayments) Act 1983

Sub-section 3 (1) (definition of “decision to which this Act applies”)—

Omit paragraph (d), substitute the following paragraph:

“(d) in a case where the expression is used in relation to relevant tax of a kind referred to in paragraph (m) of the definition of ‘relevant tax’—a decision of the Commissioner or a court in relation to the application or operation of Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* (including that Part as applied by any other Act providing for the assessment of sales tax); or”.

Sub-section 3 (1) (definition of “objection”)—

Omit paragraph (h), substitute the following paragraph:

“(h) sub-section 35 (6), 35 (10) or 41 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including those sub-sections as applied by any other Act providing for the assessment of sales tax);”.

SCHEDULE—continued

Sub-section 3 (1) (definition of “relevant tax”)—

Omit paragraph (m), substitute the following paragraph:

“(m) tax within the meaning of sub-section 29 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by any other Act providing for the assessment of sales tax);”.

Sub-section 12 (2)—

Omit paragraph (e), substitute the following paragraph:

“(e) sub-section 29 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by any other Act providing for the assessment of sales tax);”.

Taxation Laws Amendment Act 1984

Section 233—

Omit sub-section (10), substitute the following sub-section:

“(10) In this section, ‘relevant application provision’ means Part V of any Act (other than the Principal Act) providing for the assessment of sales tax or section 12 of the *Sales Tax Procedure Act 1934*.”.

Sub-section 384 (1)—

Omit paragraph (f), substitute the following paragraph:

“(f) sub-section 29 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by any other Act providing for the assessment of sales tax);”.

Sub-section 385 (1)—

Omit paragraph (e), substitute the following paragraph:

“(e) section 29 of the *Sales Tax Assessment Act (No. 1) 1930* (including that section as applied by any other Act providing for the assessment of sales tax); or”.

Tobacco Charges Assessment Act 1955

Sub-section 27 (3C)—

Omit paragraph (c), substitute the following paragraph:

“(c) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by any other Act providing for the assessment of sales tax;”.

Wool Tax (Administration) Act 1964

Sub-section 47 (3C)—

Omit paragraph (c), substitute the following paragraph:

“(c) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by an Act providing for the assessment of sales tax; or”.

Sales Tax Laws Amendment No. 47, 1985

NOTES

1. No. 25, 1930, as amended. For previous amendments, see No. 62, 1930; No. 25, 1931; Nos. 39 and 64, 1932; Nos. 17 and 47, 1933; Nos. 16 and 29, 1934; Nos. 8, 45 and 61, 1935; No. 78, 1936; Nos. 30 and 64, 1940; No. 54, 1942; No. 1, 1953; No. 40, 1962; No. 93, 1966; No. 216, 1973; No. 197, 1978; No. 19, 1979; No. 134, 1980; Nos. 51 and 122, 1982; No. 39, 1983; and No. 123, 1984.
2. No. 27, 1930, as amended. For previous amendments, see No. 64, 1930; No. 27, 1931; Nos. 40 and 64, 1932; Nos. 17 and 48, 1933; Nos. 16 and 30, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 198, 1978; and No. 123, 1984.
3. No. 29, 1930, as amended. For previous amendments, see No. 65, 1930; No. 29, 1931; Nos. 41 and 64, 1932; Nos. 17 and 49, 1933; No. 16, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 199, 1978; and No. 123, 1984.
4. No. 31, 1930, as amended. For previous amendments, see No. 66, 1930; No. 31, 1931; Nos. 42 and 64, 1932; Nos. 17 and 50, 1933; No. 16, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 200, 1978; and No. 123, 1984.
5. No. 33, 1930, as amended. For previous amendments, see No. 67, 1930; No. 33, 1931; Nos. 43 and 64, 1932; Nos. 17, 25 and 51, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 26, 1939; No. 71, 1953; No. 45, 1963; No. 93, 1966; No. 109, 1968; No. 216, 1973; No. 91, 1976; No. 201, 1978; Nos. 51 and 80, 1982; and No. 123, 1984.
6. No. 35, 1930, as amended. For previous amendments, see No. 68, 1930; No. 35, 1931; Nos. 44 and 64, 1932; Nos. 17, 25 and 52, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 202, 1978; and No. 123, 1984.
7. No. 37, 1930, as amended. For previous amendments, see No. 69, 1930; No. 37, 1931; Nos. 45 and 64, 1932; Nos. 17, 25 and 53, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 203, 1978; and No. 123, 1984.
8. No. 39, 1930, as amended. For previous amendments, see No. 70, 1930; No. 39, 1931; Nos. 46 and 64, 1932; Nos. 17, 25 and 54, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 204, 1978; and No. 123, 1984.
9. No. 41, 1930, as amended. For previous amendments, see No. 71, 1930; No. 41, 1931; No. 47, 1932; No. 55, 1933; Nos. 9 and 61, 1935; No. 78, 1936; No. 13, 1946; No. 93, 1966; No. 216, 1973; No. 205, 1978; and No. 123, 1984.
10. No. 197, 1978.
11. No. 53, 1934, as amended. For previous amendments, see No. 12, 1935; No. 78, 1936; No. 63, 1940; No. 1, 1953; No. 93, 1966; No. 216, 1973; and No. 123, 1984.

[*Minister's second reading speech made in—
House of Representatives on 9 May 1985
Senate on 20 May 1985*]