



Sales Tax Laws Amendment Act 1986

No. 99 of 1986

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Sales Tax Laws Amendment Act 1986

No. 99 of 1986

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

[Assented to 17 October 1986]

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 1986*.

Commencement

2. (1) Part I shall come into operation on the day on which this Act receives the Royal Assent.

(2) Section 17, sub-section 20 (2), section 34 and sub-section 37 (2) shall be deemed to have come into operation on 1 July 1986.

(3) The remaining provisions of this Act shall be deemed to have come into operation on 20 August 1986.

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

Principal Act

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

Interpretation

4. Section 3 of the Principal Act is amended—

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

“‘Computer program’ has the same meaning as in the *Copyright Act 1968*;

‘Construction’, in relation to a swimming pool, means—

- (a) the construction or erection of the walls and floor of the swimming pool wholly or principally from concrete, concrete blocks, sand, bricks, metal, timber or other prescribed material to form the shell or container;
- (b) the construction or installation of the coping for the swimming pool; or
- (c) the painting, tiling, waterproofing or other treating or finishing of the surface of the walls, floor and coping of the swimming pool,

but does not include—

- (d) the installation, in connection with the swimming pool, of drainage, heating, lighting, power supply, water supply, filtering or pumping equipment; or
 - (e) the undertaking of excavation or other earthworks or the clearing, levelling or landscaping of land in connection with the construction of the swimming pool;”;
- (b) by omitting from paragraph (b) of the definition of “Manufacture” in sub-section (1) “and”;
- (c) by inserting after paragraph (c) of the definition of “Manufacture” in sub-section (1) the following paragraphs:
- “; (d) the processing or treatment of exposed photographic or cinematographic film to produce a negative, transparency or film strip;
 - (e) the copying or reproduction of a computer program, whether with or without related information and whether in the same material form or in a different material form, or the conversion of a computer program to another language, code or notation, so as to embody the computer

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program in goods (including goods and commodities of the kind referred to in paragraph (a) of the definition of 'Goods'); and

- (f) the copying or reproduction of visual images or sounds, or visual images and sounds so as to embody the images or sounds, or images and sounds, as the case may be, (whether in the same material form or in a different material form) in goods (including goods and commodities of the kind referred to in paragraph (a) of the definition of 'Goods'),";
- (d) by inserting after the definition of "Manufacturer" in sub-section (1) the following definition:
 - " 'Material form', in relation to visual images or sounds, or visual images and sounds, or a computer program, includes any form (whether visible or not) of storage from which the images or sounds, or images and sounds, or the computer program, as the case may be, can be reproduced;";
- (e) by inserting after the definition of "Second Commissioner" in sub-section (1) the following definition:
 - " 'Swimming pool' includes a spa pool or hot tub;";
- (f) by inserting after sub-section (1) the following sub-sections:

"(1A) For the purposes of the application of this Act in relation to goods in which visual images or sounds, or visual images and sounds have, or a computer program has, been embodied, the reference in the definition of 'Manufacturer' in sub-section (1) to materials supplied by a person to another person shall be read as including a reference to the person making available visual images or sounds, or visual images and sounds, or a computer program, for the purposes of enabling those images or sounds, or those images and sounds, as the case may be, to be copied or reproduced, or that computer program to be copied or reproduced or converted to another language, code or notation, by that other person so as to be embodied in those goods.

"(1B) For the purposes of this Act, visual images or sounds, or visual images and sounds, or a computer program shall be taken to have been embodied in goods if the goods have been so treated in relation to those images or sounds, or those images and sounds, as the case may be, or that computer program that those images or sounds, or those images and sounds, as the case may be, are, or that computer program is, with or without the aid of some other device, capable of being reproduced from the goods.

"(1C) Where a swimming pool is constructed *in situ*, and the construction (including any action mentioned in paragraph (e) of the definition of 'Construction' in sub-section (1)) commences after 19 August 1986, and—

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- (a) the person who constructs the swimming pool does so wholly or partly in the course of carrying on a business; or
- (b) the person who constructs the swimming pool does so exclusively or principally for the use of the person otherwise than in the course of carrying on a business and the whole, or a principal part, of the labour used in the construction is provided by persons who provide their labour otherwise than voluntarily and without remuneration,

then, for the purposes of this Act (other than sub-section 17 (2) and section 17A)—

- (c) so much of the swimming pool as is so constructed shall be deemed to be manufactured goods;
- (d) the construction shall be deemed to be the manufacture of the goods;
- (e) the person who constructs the swimming pool shall be deemed to be the manufacturer of the goods;
- (f) if, at the time when the construction is completed, the manufacturer does not (whether alone or jointly with any other person or persons) have the right of exclusive occupation of the land on which the swimming pool is situated, the goods shall be deemed to be sold by retail at that time by the manufacturer to an unregistered person; and
- (g) if paragraph (f) does not apply—the goods shall be deemed to be, at the time when the construction is completed, applied to the manufacturer's own use.

“(1D) For the purposes of paragraph (1C) (b), where a swimming pool is constructed by a person and that person works on the construction, the person shall be deemed to provide his or her labour voluntarily and without remuneration.”; and

- (g) by inserting after sub-section (3) the following sub-section:

“(3A) Where goods to which section 18B would apply if the goods were sold by a person to another person are given by the first-mentioned person to the other person, then, for the purposes of this Act, the first-mentioned person shall be deemed to have sold the goods to the other person.”.

Sales tax

5. Section 17 of the Principal Act is amended—

- (a) by inserting after sub-section (1) the following sub-section:

“(1A) The reference in sub-section (1) to goods manufactured in Australia by a taxpayer and applied to the taxpayer's own use does not include a reference to goods that would be taken to be manufactured in Australia by the taxpayer by reason only of paragraph (e) of the definition of 'Manufacture' in sub-section 3 (1) and applied by the taxpayer to the taxpayer's own use.”; and

- (b) by omitting from sub-section (2) “The” and substituting “Subject to sub-section (1A), the”.

Sale value of goods

6. Section 18 of the Principal Act is amended by inserting after sub-section (3A) the following sub-section:

“(3B) Subject to sub-sections (5A) and (5B), but notwithstanding any other provision of this section, the sale value of goods, being so much of a swimming pool as is constructed *in situ*, is the amount which the manufacturer of the goods could reasonably be expected to have paid another person, being a person who constructs swimming pools in the ordinary course of the person’s business, for the construction of the goods if—

- (a) all the materials used in or in connection with the construction were supplied by that other person; and
- (b) the manufacturer and that other person were dealing with each other at arms’ length in relation to the construction.”.

7. After section 18A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“18B. (1) Where—

- (a) goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, have, after 19 August 1986, been—
 - (i) sold by the manufacturer of the goods to an unregistered person or to a registered person who has not quoted the person’s certificate in respect of the sale; or
 - (ii) treated by the manufacturer of the goods as stock for sale by retail;
- (b) where sub-paragraph (a) (i) applies—valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the manufacturer or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) but notwithstanding any other provision of section 18 or section 18A, be an amount equal to—

- (d) where sub-paragraph (a) (i) applies—the sum of—
 - (i) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section

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18 or 18A the sale value of the goods would be determined if this section had not been enacted; and

- (ii) an amount equal to the value of the licence fee; or
- (e) where sub-paragraph (a) (ii) applies—
 - (i) if the goods treated by the manufacturer are of a class which the manufacturer sells by wholesale—the sum of—
 - (A) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 18 the sale value of the goods would be determined if this section had not been enacted; and
 - (B) an amount equal to the valuable consideration that could reasonably be expected to be given in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods if the goods were sold by the manufacturer by wholesale; or
 - (ii) in any other case—the sum of—
 - (A) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 18 the sale value of the goods would be determined if this section had not been enacted; and
 - (B) an amount equal to the valuable consideration that could reasonably be expected to be given in connection with, or as consideration for, the supply of, or the right to use, visual images or sounds, or visual images and sounds that have, or a computer program that has, been embodied in identical goods if the manufacturer purchased identical goods from another manufacturer who had, in the ordinary course of the manufacturer's business, manufactured identical goods for sale and had sold them to the first-mentioned manufacturer by wholesale.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section—

- (a) an expression used in sub-section (2) has the same meaning in that sub-section as in the *Copyright Act 1968*, but ‘cinematograph film’,

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in addition to the meaning given by that Act, includes a video tape or video disc; and

- (b) a reference in sub-section (1) to identical goods shall be read as a reference to goods identical in all material respects with the goods in relation to which the expression is used.”.

Returns, &c.

8. Section 21 of the Principal Act is amended—

- (a) by omitting from paragraph (a) “or 18A” and substituting “, 18A or 18B”; and
- (b) by omitting “in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form” and substituting “in a form approved by the Commissioner containing such information as the form requires and such other information as is required”.

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

Principal Act

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

10. After section 4A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4B. (1) Where—

- (a) goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, have, after 19 August 1986, been sold by a registered person, or a person required to be registered, who purchased the goods from the manufacturer, to an unregistered person or to a registered person who has not quoted the person’s certificate in respect of the purchase of the goods;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the vendor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that

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sub-section is applied by section 12 of this Act, but notwithstanding section 4 or 4A, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 or 4A the sale value of the goods would be determined if this section had not been enacted; and
- (e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”.

Returns, &c.

11. Section 7 of the Principal Act is amended—

- (a) by omitting “sub-section (1), (2) or (3) of section 4 or sub-section (1) of section 4A” and substituting “sub-section 4 (1), (2) or (3) or 4A (1) or 4B (1)”; and
- (b) by omitting “in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form” and substituting “in a form approved by the Commissioner containing such information as the form requires and such other information as is required”.

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

12. Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

- “(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4B;”.

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

Principal Act

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

14. After section 4A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4B. (1) Where—

- (a) goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, have, after 19 August 1986, been sold by a registered person, or a person required to be registered, not being either the manufacturer of those goods or a purchaser of those goods from the manufacturer, to an unregistered person or to a registered person who has not quoted the person’s certificate in respect of the purchase of the goods;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the vendor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that sub-section is applied by section 12 of this Act, but notwithstanding section 4 or 4A, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 or 4A the sale value of the goods would be determined if this section had not been enacted; and
- (e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”

Returns, &c.

15. Section 7 of the Principal Act is amended—

- (a) by omitting “sub-section (1), (2) or (3) of section 4 or sub-section (1) of section 4A” and substituting “sub-section 4 (1), (2) or (3) or 4A (1) or 4B (1)”; and
- (b) by omitting “in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form” and substituting “in a form approved by the Commissioner containing such information as the form requires and such other information as is required”.

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

16. Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

- “(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4B;”.

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

Principal Act

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

18. After section 4A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4B. (1) Where—

- (a) goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, that have, after 19 August 1986, been purchased by a registered person who has quoted the person’s certificate in respect of the goods have been applied by the purchaser to the purchaser’s own use;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the vendor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that

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sub-section is applied by section 12 of this Act, but notwithstanding section 4 or 4A, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 or 4A the sale value of the goods would be determined if this section had not been enacted; and
- (e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”

Returns, &c.

19. Section 7 of the Principal Act is amended by omitting “in the prescribed form setting forth full particulars of the goods so applied, and such other information as is prescribed” and substituting “in a form approved by the Commissioner, setting forth full particulars of the goods so applied, and such other information as is required”.

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

20. (1) Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

- “(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4B;”.

(2) Section 12 of the Principal Act is amended by omitting from paragraph (1) (d) “sub-section 10 (1AA)” and substituting “sub-section 10 (2)”.

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

Principal Act

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

22. After section 4 of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4A. (1) Where—

- (a) imported goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, have, after 19 August 1986, been entered for home consumption by an unregistered person or a registered person who has not quoted the person’s certificate in respect of the entry;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the importer or by another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that sub-section is applied by section 12 of this Act, but notwithstanding section 4, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 the sale value of the goods would be determined if this section had not been enacted; and
- (e) an amount equal to 120% of the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”

Liability for tax

23. Section 5 of the Principal Act is amended by inserting “or 4A” after “section 4”.

Entries

24. Section 7 of the Principal Act is amended—

- (a) by inserting in paragraph (a) “or 4A (1)” after “sub-section 4 (1)”; and
- (b) by adding at the end “containing such information as the form requires and such other information as is required”.

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

25. Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

- “(aa) sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied shall be taken to be omitted;”.

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

Principal Act

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

27. After section 4A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4B. (1) Where—

- (a) imported goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, have, after 19 August 1986, been sold by a registered person, or a person required to be registered, who imported those goods, to an unregistered person or to a registered person who has not quoted the person’s certificate in respect of the purchase of the goods;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the vendor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that sub-section is applied by section 12 of this Act, but notwithstanding section 4 or 4A, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 or 4A

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the sale value of the goods would be determined if this section had not been enacted; and

- (e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”.

Returns, &c.

28. Section 7 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “sub-section (1) of section 4 or sub-section (1) of section 4A” and substituting “sub-section 4 (1), 4A (1) or 4B (1)”; and
- (b) by omitting “in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form” and substituting “in a form approved by the Commissioner containing such information as the form requires and such other information as is required”.

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

29. Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

- “(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4B;”.

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

Principal Act

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

31. After section 4A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4B. (1) Where—

- (a) imported goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, have, after 19 August 1986, been sold by a registered person, or a person required to be registered, not being the importer of those goods, to an unregistered person or to a registered person who has not quoted the person’s certificate in respect of the purchase of those goods;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the vendor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that sub-section is applied by section 12 of this Act, but notwithstanding section 4 or 4A, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 or 4A the sale value of the goods would be determined if this section had not been enacted; and
- (e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”

Returns, &c.

32. Section 7 of the Principal Act is amended—

- (a) by omitting “sub-section (1) of section 4 or sub-section (1) of section 4A” and substituting “sub-section 4 (1), 4A (1) or 4B (1)”; and

- (b) by omitting “in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form” and substituting “in a form approved by the Commissioner containing such information as the form requires and such other information as is required”.

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

33. Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

- “(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4B;”.

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

Principal Act

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

35. After section 4A of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4B. (1) Where—

- (a) imported goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied material’) have, or a computer program (in this section also referred to as the ‘embodied material’) has, been embodied, that have, after 19 August 1986, been purchased by a registered person who has quoted the person’s certificate in respect of those goods have been applied to the person’s own use;
- (b) valuable consideration (in this section referred to as the ‘licence fee’) has been given by the purchaser or another person to the vendor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that sub-section is applied by section 12 of this Act, but notwithstanding section 4 or 4A, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 or 4A the sale value of the goods would be determined if this section had not been enacted; and

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(e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”

Returns, &c.

36. Section 7 of the Principal Act is amended by omitting “in the prescribed form setting forth particulars of the goods so applied and such other information as is prescribed” and substituting “in a form approved by the Commissioner, setting forth full particulars of the goods so applied, and such other information as is required”.

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

37. (1) Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph:

“(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4B;”.

(2) Section 12 of the Principal Act is amended by omitting from paragraph (1) (d) “sub-section 10 (1AA)” and substituting “sub-section 10 (2)”.

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

Principal Act

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

39. After section 4 of the Principal Act the following section is inserted:

Sale value of goods embodying certain information

“4A. (1) Where—

- (a) goods in which visual images or sounds, or visual images and sounds (any of which are, in this section, referred to as the ‘embodied

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material') have, or a computer program (in this section also referred to as the 'embodied material') has, been embodied, have, after 19 August 1986, been leased by a registered person, or a person required to be registered, to an unregistered person, or to a registered person who has not quoted the person's certificate in respect of the lease;

- (b) valuable consideration (in this section referred to as the 'licence fee') has been given by the lessee or another person to the lessor or another person in connection with, or as consideration for, the supply of, or the right to use, the embodied material in the goods; and
- (c) the sale value of the goods for the purposes of this Act would not, but for this section, include the value of the licence fee,

the sale value of the goods, for the purposes of this Act, shall, subject to sub-section 18 (5B) of the *Sales Tax Assessment Act (No. 1) 1930* as that sub-section is applied by section 12 of this Act, but notwithstanding section 4, be an amount equal to the sum of—

- (d) the amount that would be the sale value of the goods for the purposes of this Act under whichever provision of section 4 the sale value of the goods would be determined if this section had not been enacted; and
- (e) an amount equal to the value of the licence fee.

“(2) A reference in sub-section (1) to the right to use embodied material does not include a reference to a right to—

- (a) broadcast a work, sound recording or cinematograph film;
- (b) cause a cinematograph film, a work, or a television program that includes a work, to be transmitted to subscribers to a diffusion service;
- (c) cause a sound recording to be heard in public;
- (d) cause a cinematograph film to be seen in public; or
- (e) exhibit an article in public.

“(3) For the purposes of this section, an expression used in sub-section (2) has the same meaning in that sub-section 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.”

Liability for tax

40. Section 5 of the Principal Act is amended by adding at the end “or 4A”.

Returns, &c.

41. Section 7 of the Principal Act is amended—

- (a) by inserting “or 4A” after “section 4”; and
- (b) by omitting “in the prescribed form setting forth full particulars of the lease and the goods subject to the lease, and such information

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as is prescribed” and substituting “in a form approved by the Commissioner, setting forth full particulars of the lease and the goods subject to the lease, and such other information as is required”.

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

42. Section 12 of the Principal Act is amended by inserting before paragraph (1) (a) the following paragraph;

“(aa) a reference in sub-section 3 (3A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to section 18B shall be read as a reference to section 4A;”.

**PART XI—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 10) 1985**

Principal Act

43. The *Sales Tax Assessment Act (No. 10) 1985*¹⁰ is in this Part referred to as the Principal Act.

Returns, &c.

44. Section 7 of the Principal Act is amended by omitting “in the prescribed form setting forth full particulars of the goods, the royalty paid in respect of the goods, and such other information as is prescribed” and substituting “in a form approved by the Commissioner, setting forth full particulars of the goods, the royalty paid in respect of the goods, and such other information as is required”.

PART XII—AMENDMENT OF SALES TAX REGULATIONS

Sales Tax Regulations

45. The Sales Tax Regulations are in this Part referred to as the Regulations.

Cases in which certificates are to be quoted

46. Regulation 12 of the Regulations is amended—

- (a) by omitting from sub-paragraph (1) (b) (i) “and”; and
- (b) by adding at the end of paragraph (1) (b) the following word and sub-paragraph:

“and (iii) goods to be manufactured by the person and to which paragraph 3 (1C) (f) or (g) of that Act will apply;”.

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

47. Regulation 57A of the Regulations is amended—

- (a) by omitting from paragraph (2) (c) “or”; and
- (b) by inserting after paragraph (2) (d) the following word and paragraph:

“; or (e) imported goods entered for home consumption, being goods specified in an instrument in force under sub-regulation 125A (2) of the Customs Regulations.”.

Amendment or repeal of Regulations

48. The amendment of the Regulations by this Part does not prevent the amendment or repeal, by regulations, of the Regulations as amended by this Part.

PART XIII—TRANSITIONAL

Avoidance of sales tax

49. Where—

- (a) at any time (in this section referred to as the “relevant time”) after 8 o’clock in the evening, by standard time in the Australian Capital Territory, on 19 August 1986 and before 20 August 1986 a person entered into, performed or carried out a transaction, act or operation (in this section referred to as the “dealing”) in relation to goods; and
- (b) the person entered into, performed or carried out the dealing at the relevant time for the purpose, or for purposes that included the purpose, of enabling any person to avoid liability to pay an amount, or part of an amount, of sales tax that would have been, or might reasonably be expected to have been, payable in relation to the dealing under the laws relating to sales tax if the dealing had been entered into, performed or carried out on 20 August 1986,

then, for the purposes of those laws, the dealing shall be deemed to have been entered into, performed or carried out on 20 August 1986.

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 (as amended by No. 47, 1985); No. 19, 1979; No. 134, 1980; Nos. 51 and 122, 1982; No. 39, 1983; No. 123, 1984 (as amended by No. 47, 1985); Nos. 47, 123 and 144, 1985; and Nos. 41 and 48, 1986.
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; No. 123, 1984, No. 47, 1985; and No. 48, 1986.
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; No. 123, 1984; No. 47, 1985; and No. 48, 1986.

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NOTES—continued

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; No. 123, 1984; No. 47, 1985; and No. 48, 1986.
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; No. 123, 1984 (as amended by No. 144, 1985); No. 144, 1985; and No. 48, 1986.
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; No. 123, 1984; No. 47, 1985; and No. 48, 1986.
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; No. 123, 1984; No. 47, 1985; and No. 48, 1986.
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; No. 123, 1984; No. 47, 1985; and No. 48, 1986.
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; No. 123, 1984; Nos. 47 and 144, 1985; and No. 48, 1986.
10. No. 43, 1985. For previous amendments, see No. 48, 1986.

*[Minister's second reading speech made in—
House of Representatives on 19 August 1986
Senate on 24 September 1986]*