

Sales Tax (Federal Airports Corporation) Regulations 1991 No. 238

EXPLANATORY STATEMENT

STATUTORY RULES 1991 No. 238

Issued by the Authority of the Treasurer

SALES TAX ASSESSMENT ACTS (Nos 1-9) 1930 and

SALES TAX ASSESSMENT ACTS (Nos 10 & 11) 1985

SALES TAX (FEDERAL AIRPORTS CORPORATION) REGULATIONS

These regulations are made under the authority of section 73 and subsection 20A(4) of the Sales Tax Assessment Act (No. 1) 1930, subsection 12(1) of each of the Sales Tax Assessment Acts (Nos 2-9 1930 and of the Sales Tax Assessment (No. 10) 1985 and subsection 16(1) of the Sales Tax Assessment Act No. 11 1985.

Section 73 of the Sales Tax Assessment Act (No. 1) empowers the Governor-General to make regulations - provided they are consistent with the Act - prescribing all matters that are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, in order to give effect to the Act. Schedule 2 to the Act contains a list of non-exempt (Commonwealth statutory) authorities established before 14 May 1987. Subsection 20A(4) provides that Schedule 2 may be amended by regulation to add an authority to, or remove an authority from, the Schedule.

Subsection 12(1) of each of the Sales Tax Assessment Acts (Nos 2-9), subsection 12(1) of the Sales Tax Assessment Act (No. 10) and subsection 16(1) of the Sales Tax Assessment Act (No. 11) adopt and apply by reference section 73, section 20A and the Schedules to the Sales Tax Assessment Act (No. 1) for the purposes of the imposition, assessment and collection of the sales tax chargeable under the relevant Assessment Act.

The Government announced changes to the sales tax treatment of certain Commonwealth Government Business Enterprises in the May 1987 Economic Statement. Subsequently in the May 1988 Economic Statement the Government announced that all Commonwealth Government Business Enterprises would be subject to the same taxes and charges as private businesses. In line with this policy, the sales tax exemptions for goods for use by the Federal Airports Corporation, which is a Commonwealth Government Business Enterprise, is removed with effect from 1 August 1991.

The sales tax law provides several exemptions from sales tax for goods for use, and not for sale, by government authorities. In general terms, item 74 in the First Schedule to the Sales Tax (Exemptions and Classifications) Act 1935 exempts goods for official use by authorities which are completely controlled by, and whose expenditure is exclusively borne by, the Government of the Commonwealth, a State or the Northern Territory or the Australian Capital Territory. Item 77 exempts goods for use by public transport authorities exclusively in connection with the establishment, conduct or maintenance of transport services. Subitem 78(ii) exempts goods for use by public authorities constituted under any law of the Commonwealth or of a State or Territory for the purpose of carrying out any or all of the functions of a municipal, shire or district council.

These exemptions do not apply to authorities defined by subsection 20A(1) of the Sales Tax Assessment Act (No. 1).

Subsection 20A(1) defines "authority" to include authorities specified in Schedule 2 to the Act. Subsection 20A(4) provides that Schedule 2 may be amended by regulation to add an authority to, or remove an authority from, the Schedule.

These regulations add the Federal Airports Corporation to the list of authorities specified in Schedule 2, thereby removing the sales tax exemptions under items 74, 77 and 78(ii) for goods purchased for use and not for sale by the Corporation.

The amending Regulations apply to all transactions, acts and operations occurring on or after 1 August 1991.

A detailed explanation of each Regulation in the amending Regulations is set out in Attachment A.

ATTACHMENT A

SALES TAX (FEDERAL AIRPORTS CORPORATION) REGULATIONS

Regulation 1: Citation

The regulations are to be cited as the Sales Tax (Federal Airports Corporation) Regulations.

Regulation 2: Amendment of Act

By regulation 2, Schedule 2 to the Sales Tax Assessment Act (No. 1) 1930 is amended by adding the Federal Airports Corporation to the authorities listed in the Schedule. The sales tax exemptions under items 74, 77 and 78(ii) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act 1935 for goods for use and not for sale by the Corporation are thereby removed.

Regulation 3: Application

By regulation 3, the amendment to Schedule 2 applies in relation to all transactions, acts and operations effected or done in relation to goods on or after 1 August 1991.