

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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*(As read a first time)*

**SALES TAX ASSESSMENT BILL (No. 10) 1985**

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1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
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Presented and read a first time, 9 May 1985

(*Treasurer*)

**A BILL**

FOR

**An Act relating to the imposition, assessment and collection of  
a tax upon the sale value of certain goods in Australia, and for  
other purposes**

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**

- 5     1. This Act may be cited as the *Sales Tax Assessment Act (No. 10) 1985*.

**Commencement**

2. This Act shall be deemed to have come into operation on 9 May 1985.

**Interpretation**

- 10    3. (1) In this Act, unless the contrary intention appears—  
“Act providing for the assessment of sales tax” does not include this Act;

“goods” includes—

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

“Taxing Act” means the *Sales Tax Act (No. 10A) 1985*, the *Sales Tax Act (No. 10B) 1985* or the *Sales Tax Act (No. 10C) 1985*, as the case requires. 5

(2) A reference in this Act to goods deemed to be sold is a reference to goods that are, by virtue of section 6 of the relevant Taxing Act, deemed to be sold. 10

**PART II—LIABILITY TO TAXATION**

**Sales tax**

4. Subject to, and in accordance with, the provisions of this Act, the sales tax imposed by a Taxing Act shall be levied and paid upon the sale value of goods in Australia deemed to be sold by a taxpayer. 15

**Sale value**

5. The sale value of goods deemed to be sold by a taxpayer is the amount that, in the opinion of the Commissioner, is the value of the amount of royalty paid by the taxpayer in respect of the goods, less any part of that amount of royalty taken into account in determining the sale value of the goods under an Act providing for the assessment of sales tax. 20

**Liability for tax**

6. Sales tax upon the sale value of goods shall be paid by the person by whom the goods are deemed to be sold.

**PART III—RETURNS** 25

**Returns, &c.**

7. Every person who is deemed to sell goods during any month shall, within 21 days after the close of that month, furnish to the Commissioner a return 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. 30

**Further returns**

8. In addition to any return that may have been required under section 7, the Commissioner may, by notice in writing, call upon any person to furnish to the Commissioner, within the time specified in the notice, such return or such further or fuller return as the Commissioner requires, whether in that person’s own behalf or as an agent or a trustee. 35

**PART IV—COLLECTION AND RECOVERY OF TAX**

**Time for payment of tax**

5 9. (1) Every person liable to pay tax under section 6 upon the sale value of goods deemed to be sold by the person during any month shall, within 21 days after the close of that month, pay sales tax upon that sale value.

(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1).

**Further tax**

10 10. (1) Where the Commissioner finds in any case that tax is payable by any person, the Commissioner may—

(a) assess the sale value upon which tax should be or should have been paid; and

(b) calculate the tax which is payable.

(2) Where—

15 (a) a person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by a person; or

(c) the Commissioner has reason to believe or suspect that a person is liable to pay sales tax (whether or not the person has furnished a return),

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

25 (3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment and of the tax to be given to the person liable to pay the tax.

(4) The amount of tax specified in the notice is payable on or before the date specified in the notice together with any other amount that may be payable in accordance with any other provision of this Act.

30 (5) The omission to give such a notice does not invalidate the assessment and calculation made by the Commissioner.

(6) In this section, unless the contrary intention appears, “tax” includes further tax.

**Refund of tax**

35 11. (1) Where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

(a) refund the amount of any tax overpaid; or

(b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth arising under, or by virtue of, an Act of

which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

(2) Where—

- (a) tax is paid by a taxpayer under this Act in respect of goods; and
- (b) the whole of the amount of tax paid or payable by any person in respect of the goods under an Act relating to the payment of sales tax is refunded or refundable,

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the Commissioner shall refund the amount of tax paid under this Act.

(3) Where—

- (a) tax is paid by a taxpayer under this Act in respect of goods because tax (in this sub-section referred to as the “other tax”) might reasonably be expected to be payable in respect of the goods under an Act providing for the assessment of sales tax; and
- (b) it is subsequently ascertained that the whole of the amount of the other tax was not, and is not, payable in respect of the goods,

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the Commissioner shall refund the amount of the first-mentioned tax.

(4) Sub-sections (1), (2) and (3) do not apply in relation to any tax paid under this Act by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.

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(5) Notwithstanding anything contained in this section, if any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of goods deemed to be sold by the taxpayer before the commencement of the law making the alteration.

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(6) In this section, unless the contrary intention appears, “tax” includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.

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## PART V—APPLICATION OF SALES TAX ASSESSMENT ACT (No. 1) 1930

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

12. (1) The following provisions of the *Sales Tax Assessment Act (No. 1) 1930*, namely, sections 3 (except the definition of “Goods”) and 3A, Parts II and III, sub-sections 18 (5B) and (5C), sections 23, 25A, 27 to 39 (inclusive), and Parts VII, VIII (other than section 46) and X, and the Schedule apply, *mutatis mutandis*, in relation to the imposition, assessment and collection of the tax chargeable under this Act in like manner as they apply in relation to the

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imposition, assessment and collection of the tax chargeable under that Act, but for the purposes of this Act—

- 5 (a) the definition of “Wholesale Merchant” in sub-section 3 (1) of that Act as so applied shall be construed as including a reference to a person who is deemed to sell goods;
- (b) a reference in sub-section 32 (2A) of that Act as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;
- 10 (c) the reference in paragraph (c) of the definition of “prescribed tax” in sub-section 32 (2D) of that Act as so applied to an Act providing for the assessment of sales tax shall be taken not to include a reference to this Act; and
- 15 (d) the reference in sub-section 35 (2) of that Act as so applied to Part V shall be read as a reference to Part III.

20 (2) The power to make regulations conferred by the application, by sub-section (1) of this section, of section 73 of the *Sales Tax Assessment Act (No. 1) 1930* includes the power to make regulations for enabling registrations, certificates and securities made, issued or given for the purposes of that Act to be treated as, or to be deemed to be, made, issued or given for the purposes also of this Act, and shall include the power generally to make regulations for treating acts, matters and things done, for the purposes of that Act, under the provisions of that Act made applicable to this Act, as done or deemed to be done under this Act.

