

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

SALES TAX AMENDMENT (TRANSITIONAL) BILL 1992

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AMENDMENT OF ACTS

1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 26 May 1992

(Minister Assisting the Treasurer)

A BILL

FOR

**An Act to terminate the operation of the old sales tax law,
to make amendments that are consequential on the new
sales tax law, and for related purposes**

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Sales Tax Amendment (Transitional)*
 Act 1992.

Commencement

2. This Act commences on the 28th day after the day on which it
 receives the Royal Assent.

Interpretation

3. In this Act, unless the contrary intention appears:

“commencing day” means the day on which this Act commences;

“first taxing day” means the first taxing day within the meaning of the new Assessment Act; 5

“new Assessment Act” means the *Sales Tax Assessment Act 1992*;

“new Exemptions and Classifications Act” means the *Sales Tax (Exemptions and Classifications) Act 1992*;

“new law” means the sales tax law, as defined by section 5 of the new Assessment Act; 10

“old Exemptions and Classifications Act” means the *Sales Tax (Exemptions and Classifications) Act 1935*;

“old law” means the law relating to sales tax, other than sales tax payable under the new Assessment Act.

PART 2—TERMINATION OF THE OLD SALES TAX 15

Termination of the old sales tax

4.(1) Subject to this section, the old law does not impose tax on any act, transaction or operation that happens on or after the first taxing day.

(2) The tax imposed on goods by the *Sales Tax Act (No. 9) 1930* is terminated as follows: 20

(a) if any lease of the goods was granted before the first taxing day—that Act does not impose tax on a lease of those goods that is granted more than 2 years after the first taxing day; and

(b) if no lease of the goods was granted before the first taxing day—that Act does not impose tax on a lease of those goods that is granted after the first taxing day. 25

PART 3—TRANSITIONAL OPERATION OF THE NEW SALES TAX LAW

Certain assessable dealings do not apply to goods taxed etc. under the old law 30

5. If goods have been taxed under the old law, or would have been taxed except for the old Exemptions and Classifications Act, then no liability to tax on those goods arises under AD2e, AD3a, AD12e or AD13a in Table 1 in Schedule 1 to the new Assessment Act. 35

Certain goods not to be regarded as Australian-used goods on account of AOU before first taxing day

6.(1) In deciding whether goods are assessable goods for the purposes of the new law, an AOU in Australia of the goods that happened before the first taxing day is to be disregarded unless: 40

- (a) tax was imposed on the AOU by the old law; or
- (b) the AOU was exempted from tax under the old law:
 - (i) because of the old Exemptions and Classifications Act; or
 - (ii) because the taxpayer concerned could not be taxed or was entitled to an exemption arising outside the old law.

(2) This section does not apply to a packing AOU.

Goods obtained under quote

7. The new law applies as if:

- (a) any reference in the new law to goods purchased under quote included a reference to goods purchased by a person who was registered under the old law and quoted his or her certificate of registration in respect of the purchase; and
- (b) any reference in the new law to goods locally entered under quote included a reference to goods entered for home consumption (within the meaning of the old law) by a person who was registered under the old law and quoted his or her certificate of registration in respect of the entry.

Container component not included under the new law if container already taxed under the old law

8. For the purposes of section 35 of the new Assessment Act, a container that has been taxed under the old law is to be taken to have been the subject of a taxable dealing under the new law.

Credits to be available under the new law for old sales tax

9.(1) Credits are available under the new law for tax under the old law as if it were tax paid, payable or borne (as the case requires) under the new law.

(2) This section does not apply to credit ground CR1, CR11, CR12, CR13, CR19, CR20 or CR21.

(3) This section does not create an entitlement to a credit if that entitlement would arise before the first taxing day.

Registrations under the old law to continue in effect under the new sales tax law

10.(1) A person who is a registered person under the old law immediately before the first taxing day is taken to be registered under Part 6 of the new Assessment Act from the first taxing day. However, the registration may be cancelled on any of the grounds in section 80 of the new Assessment Act.

(2) A person who is a registered person under the old law immediately before the first taxing day must notify the Commissioner if, on the first taxing day, the person does not have a ground for being

registered under section 78 of the new Assessment Act. The person must give the notice in writing and within 21 days after the first taxing day.

Continued operation of some Items in the old Exemptions and Classifications Act

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11. The new Exemptions and Classifications Act has effect as if Schedule 1 included Items 14, 14A and 105 from the First Schedule to the old Exemptions and Classifications Act.

Preservation of benefit of old exemption Items 100 and 103 (small businesses)

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12.(1) An assessable dealing that would otherwise be taxable under the new law is not taxable if it meets all the following conditions:

- (a) the goods were manufactured by the taxpayer;
- (b) if the dealing had happened immediately before the first taxing day, it would have been exempted because of Item 100 or 103 in the First Schedule to the old Exemptions and Classifications Act; 15
- (c) the taxpayer has been exempted by either of those Items on at least one occasion before the first taxing day.

(2) A dealing to which this section applies is taken, for all purposes of the new law, to have been exempted by section 29 of the new Assessment Act. 20

Transitional operation of small business exemption

13.(1) This section modifies the operation of section 29 of the new Assessment Act, with the general aim of treating tax under the old law in the same way as tax under the new law is treated for the purposes of that section. 25

(2) In applying section 29 of the new Assessment Act, the reference in that section to the total tax liability on countable dealings includes a reference to: 30

- (a) tax payable under the old law on any act, transaction or operation; and
- (b) tax that would have been payable under the old law on an act, transaction or operation except for the operation of Item 100 or 103 in the First Schedule to the old Exemptions and Classifications Act. 35

In this subsection, a reference to tax under the old law does not include tax imposed by the *Sales Tax Act (No. 5) 1930*.

(3) Subsection 29(5) of the new Assessment Act has effect in relation to input goods that were purchased or entered for home consumption (within the meaning of the old law) by the taxpayer before the first taxing day as if: 40

(a) subparagraph 29(5)(b)(i) were replaced by a condition to the effect that the taxpayer has not borne tax on the input goods under the old law, but would have borne such tax except for the fact that the taxpayer quoted his or her certificate of registration under the old law in respect of the purchase or entry; and

(b) subparagraph 29(5)(b)(ii) were replaced by a condition to the effect that the taxpayer has borne tax on the input goods under the old law but has become entitled to a refund or other payment under the old law, or a credit under the new law, in respect of that tax.

(4) Subparagraph 29(5)(a)(ii) of the new Assessment Act does not apply to input goods that the taxpayer purchased, or applied to own use, before the first taxing day.

Transitional operation of quarterly remitter rules

14. For the purpose of deciding whether a person is a quarterly remitter for a sales tax quarter, subsection 62(2) of the new Assessment Act has effect as if:

(a) the reference in that subsection to sales tax included a reference to tax under the old law; and

(b) a reference in that subsection to the person having been a quarterly remitter for a particular sales tax quarter included a reference to the person having been a quarterly remitter under the old law for that quarter; and

(c) the reference in that subsection to the person's liability to lodge returns, or to pay tax, in respect of assessable dealings included a reference to the person's liability under the old law to lodge returns, or to pay tax, in respect of acts, transactions or operations.

PART 4—REGULATIONS

Regulations

15.(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, regulations may be made:

(a) providing for approvals made or given for the purposes of particular provisions of the old Exemptions and Classifications Act to continue to have effect (with any prescribed alterations) for the purposes of corresponding provisions of the new Exemptions and Classifications Act;

- (b) providing for regulations made for the purposes of particular provisions of the old Exemptions and Classifications Act to continue to have effect (with any prescribed alterations) for the purposes of the new Exemptions and Classifications Act;
- (c) for other transitional measures in relation to the termination of the old law or the transition from the old law to the new law.

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PART 5—AMENDMENT OF OTHER ACTS

Amendment of other Acts

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

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SCHEDULE

Section 16

AMENDMENT OF ACTS

Australian National Maritime Museum Act 1990

Paragraph 49(b):

Omit the paragraph, substitute:

“(b) sales tax is not payable by the Museum, or by any other person, on goods that are for use by the Museum.”.

Australian National Railways Commission Act 1983

Subsection 67(6):

After “1935” insert “or Item 64 in Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992*”.

Australian Sports Commission Act 1989

Subsection 50(2):

Omit the subsection, substitute:

“(2) Subject to subsection (3), sales tax is not payable by the Commission, or by any other person, on goods that are for use by the Commission.”.

Subsection 51(2):

Omit the subsection, substitute:

“(2) Subject to subsection (3), sales tax is not payable by the Foundation, or by any other person, on goods that are for use by the Foundation.”.

Australian Sports Drug Agency Act 1990

Subsection 65A(2):

Omit the subsection, substitute:

“(2) Subject to subsection (3), sales tax is not payable by the Agency, or by any other person, on goods that are for use by the Agency.”.

Consular Privileges and Immunities Act 1972

Subsection 3(1) (definition of “registered person”):

Omit the definition.

SCHEDULE—continued**Subsection 8(1):**

Omit the subsection, substitute:

“(1) Subject to this section, sales tax is not payable on goods that are freed from duties of excise by section 7.”.

Paragraph 8A(1)(a):

Omit the paragraph, substitute:

“(a) purchased, by or on behalf of the head of a consular post of a prescribed overseas country, directly from a person who is registered under the law relating to sales tax; and”.

Crimes (Taxation Offences) Act 1980**Subsection 3(1) (definition of “sales tax”):**

Omit the definition.

Subsection 3(1) (definition of “Sales Tax Assessment Acts”):

Omit “sales tax”, substitute “old sales tax”.

Subsection 3(1):

Insert:

“‘old sales tax’ means tax imposed under the name of sales tax by any Act, but does not include tax payable under the *Sales Tax Assessment Act 1992*;”.

Paragraph 3(2)(b):

Omit “future sales tax”, substitute “future old sales tax”.

Subparagraphs 3(2)(b)(i) and (ii):

Omit “sales tax”, substitute “old sales tax”.

Paragraph 3(2)(c):

Omit “sales tax moneys”, substitute “old sales tax moneys”.

Subparagraphs 3(2)(c)(i) and (v):

Omit “sales tax”, substitute “old sales tax”.

Subsection 3(3):

Omit “sales tax” (wherever occurring), substitute “old sales tax”.

Paragraph 3(4)(e):

Omit “sales tax” (wherever occurring), substitute “old sales tax”.

Subsection 3(5):

Omit “sales tax” (wherever occurring), substitute “old sales tax”.

SCHEDULE—continued

After subsection 4(2):

Insert:

“(2A) Section 110 of the *Sales Tax Assessment Act 1992* has effect as if this Act were part of that Act.”.

Heading to Part II:

Omit “SALES TAX”, substitute “OLD SALES TAX”.

Sections 5, 6, 7, 8, 10, 11 and 12:

Omit “sales tax” (wherever occurring), substitute “old sales tax”.

After Part II:

Insert:

**“PART IIA—OFFENCES RELATING TO SALES TAX PAYABLE
UNDER THE SALES TAX ASSESSMENT ACT 1992**

**Application of Parts I and II in relation to sales tax payable under the
*Sales Tax Assessment Act 1992***

“12A. Parts I and II have effect (with appropriate alterations) in relation to the *Sales Tax Assessment Act 1992* in the same way as they have effect in relation to the Sales Tax Assessment Acts.”.

Diplomatic Privileges and Immunities Act 1967

Subsection 4(1) (definition of “registered person”):

Omit the definition.

Subsection 10(1):

Omit the subsection, substitute:

“(1) Subject to this section, sales tax is not payable on goods that are freed from duties of excise by section 9.”.

Paragraph 10A(1)(a):

Omit the paragraph, substitute:

“(a) purchased, by or on behalf of the head of a mission of a prescribed overseas country, directly from a person who is registered under the law relating to sales tax;”.

Freedom of Information Act 1982

Schedule 3:

After “*Sales Tax Procedure Act 1934*, subsection 4A(3)”, insert “*Sales Tax Assessment Act 1992*, subsection 110(2)”.

SCHEDULE—continued***Fringe Benefits Tax Assessment Act 1986*****Subsection 96(7):**

Omit the subsection, substitute:

“(7) In subsection (3), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

Hearing Services Act 1991**Subsection 53(2):**

Omit the subsection, substitute:

“(2) In particular, sales tax is not payable by the Authority, or by any other person, on goods that are for use by the Authority.”.

Income Tax Assessment Act 1936**Subsection 215(3D):**

Omit the subsection, substitute:

“(3D) In subsection (3), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

Pay-roll Tax (Territories) Assessment Act 1971**Subsection 30(3C):**

Omit the subsection, substitute:

“(3C) In subsection (3), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990**Section 12 (definition of “Australian tax”):**

Omit paragraph (c), substitute:

“(c) sales tax imposed on imported goods.”.

Paragraphs 15(1)(c), (d), (e) and (f):

Omit the paragraphs, substitute:

“(c) any Act, so far as it relates to the assessment of sales tax imposed on imported goods.”.

SCHEDULE—continued

Paragraphs 15(2)(c), (d), (e) and (f):

Omit the paragraphs, substitute:

“(c) any Act, so far as it relates to the assessment of sales tax imposed on imported goods;”.

Petroleum Resource Rent Tax Assessment Act 1987

Subsection 88(7):

Omit the subsection, substitute:

“(7) In subsection (3), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

Sales Tax Assessment Act (No. 1) 1930

Subsection 32(2D):

Omit the subsection, substitute:

“(2D) In subsection (2A), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

Social Security Act 1991

Section 1037:

Omit paragraph (b), substitute:

“(b) if the person receives the benefit of an exemption under:

(i) item 135 or 135A of the First Schedule to the *Sales Tax (Exemptions and Classifications) Act 1935*; or

(ii) Item 96 or 97 in Schedule 1 to the *Sales Tax (Exemptions and Classifications) Act 1992*;

(other than a benefit in respect of parts for a motor vehicle)—during the period of 2 years starting on the day on which the person received the benefit of the exemption.”.

Special Broadcasting Service Act 1991

Section 68:

Omit “is not subject to sales tax”, substitute “sales tax is not payable by the SBS, or by any other person, on goods that are for use by the SBS.”.

SCHEDULE—continued

Taxation Administration Act 1953**After paragraph 8J(2)(n):**

Insert:

“(na) paragraph 108(1)(c) of the *Sales Tax Assessment Act 1992*; or”.

After paragraph 8ZE(3)(g):

Insert:

“(ga) section 96 or 97 of the *Sales Tax Assessment Act 1992*; or”.

Section 14ZQ (definition of “delayed administration (beneficiary objection)”):

After paragraph (e) insert:

“(ea) subsection 73(4) of the *Sales Tax Assessment Act 1992*; or”.

Section 14ZQ (definition of “delayed administration (trustee objection)”):

After paragraph (e) insert:

“(ea) subsection 73(5) of the *Sales Tax Assessment Act 1992*; or”.

Section 14ZQ (definition of “registration-type sales tax decision”):

Omit the definition, substitute:

“‘**registration-type sales tax decision**’ means:

- (a) a decision covered by subsection 38A(4) of the *Sales Tax Assessment Act (No. 1) 1930* (including that subsection as applied by any other *Sales Tax Assessment Act*); or
- (b) a decision covered by section 79 or 80 of the *Sales Tax Assessment Act 1992*.”.

Subsection 14ZT(2):

Omit “in this section”, substitute “in subsection (1)”.

After subsection 14ZT(2):

Add:

“(3) An objection decision under the *Sales Tax Assessment Act 1992* that relates to the remission of a penalty is an ineligible sales tax remission decision, unless the amount of penalty that is payable after the decision is made is more than the amount that applies under subsection (4) and is also more than \$20.

“(4) The amount that applies to an objection decision is worked out by applying a rate of 20% per year to the base amount in column 2 during the period in column 3:

SCHEDULE—continued

Remission decision relates to penalty under:	Base amount	Period
section 96 in relation to a failure to provide a return or other information concerning goods	the tax properly payable on those goods	starting on the last day allowed for providing the return or information, and ending on the day on which the return or information is provided or the assessment of penalty is made (whichever happens first)
section 97 in relation to making a false statement	the excess referred to in subsection 97(2)	starting on the day when the excess became due for payment and ending on the day on which the assessment of penalty is made
section 98 in relation to obtaining a tax benefit under an avoidance scheme	the tax benefit referred to in section 98	starting on the day when the amount involved in the tax benefit would have become due and payable, and ending on the day on which the assessment of penalty is made

Taxation (Interest on Overpayments) Act 1983**Subsection 3(1) (definition of “relevant tax”):**

After paragraph (m) insert:

“(ma) tax within the meaning of section 68 of the *Sales Tax Assessment Act 1992*”.

Telecommunications Act 1991**Subsection 394(1):**

Omit “is not subject to sales tax”, substitute “sales tax is not payable by AUSTEL, or by any other person, on goods that are for use by AUSTEL”.

SCHEDULE—continued

*Tobacco Charges Assessment Act 1955***Subsection 27(3C):**

Omit the subsection, substitute:

“(3C) In subsection (3), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

*Training Guarantee (Administration) Act 1990***Subsection 78(10):**

Omit the subsection, substitute:

“(10) In this section:

‘**notified tax amount**’ means an amount that the Commissioner has notified to the company or the respective asset holder under a section of another Act that corresponds to this section;

‘**training guarantee charge**’ includes additional training guarantee charge under section 75 or Part 9.”.

*University of Canberra Act 1989***Subsection 38(2):**

Omit “or sales tax”.

After subsection 38(2):

Insert:

“(2A) Subject to subsection (3), sales tax is not payable by the University, or by any other person, on goods that are for use by the University.”.

*Wool Tax (Administration) Act 1964***Subsection 47(3C):**

Omit the subsection, substitute:

“(3C) In subsection (3), ‘**prescribed tax**’ means any amount that the Commissioner is required to notify under a section of another Act that corresponds to this section.”.

