

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SALES TAX LAWS AMENDMENT BILL 1990

SALES TAX (Nos. 1-9) AMENDMENT BILLS 1990

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer,
the Hon. P.J. Keating, M.P.)



GENERAL OUTLINE

Sales Tax Laws Amendment Bill 1990
Sales Tax (Nos. 1-9) Amendment Bills 1990

These Bills will amend the Sales Tax (Exemptions and Classifications) Act 1935, the Sales Tax Acts (Nos. 1-9) 1930 and the Sales Tax Acts (Nos. 11A & 11B) 1985-

- . to increase from 30% to 50% cent the rate of sales tax on motor cars and station wagons (including four wheel-drive vehicles) with wholesale prices (for sales tax purposes) above \$28,793 - this amount is the wholesale price equivalent of the upper limit of \$42,910 on which depreciation is allowable for income tax purposes on such vehicles; and
- . to reduce from 30% to 20% the rate of sales tax on motor vehicles that have been specially fitted out for transporting disabled persons seated in wheelchairs.

FINANCIAL IMPACT

It is estimated that the increase in the rate of sales tax applicable to motor vehicles with wholesale prices above \$28,793 will produce a net revenue gain of \$105 million in a full year.

The cost to revenue of reducing the sales tax rate on motor vehicles specially fitted out for transporting disabled persons seated in wheelchairs is estimated to be less than \$3 million in a full year.

MAIN FEATURES

Sales Tax Laws Amendment Bill 1990
Sales Tax (Nos. 1-9) Amendment Bills 1990

Motor vehicles (including cars and station wagons that are four-wheel drive vehicles) with a wholesale price greater than \$28,793 are taxed at the rate of 30%. Lower priced vehicles are subject to the general sales tax rate of 20%. The wholesale sale price limit of \$28,793 is calculated by reference to the upper depreciation limit of \$42,910 for motor vehicles for income tax purposes (refer section 57AF of the Income Tax Assessment Act 1936). As such, the wholesale price limit is altered each 1 July in accordance with indexation changes in the income tax depreciation limit.

With effect from 1 May 1990 these Bills increase the rate of sales tax that applies to motor vehicles with a

wholesale sale value above \$28,793 from 30% to 50%.

However, motor vehicles that are specially fitted out for transporting disabled persons while seated in wheelchairs are to be excluded from the higher rate of tax. These vehicles are now generally subject to the 30% rate of tax largely due to the expensive nature of the fit out. The Bill excludes these vehicles from the category of vehicles that are to be subject to the new 50% rate. The rate of sales tax applicable to these vehicles is to be reduced from 30% to the general rate of 20%, effective from 1 May 1990.

More detailed explanations of the clauses of each of the Bills are contained in the notes that follow.

SALES TAX (Nos. 1-9) AMENDMENT BILLS 1990

The purpose of these Bills is to impose tax at the rate of 50% on the sale value of goods covered by the new Sixth Schedule added to the Sales Tax (Exemptions and Classifications) Act 1935 (the Exemptions and Classifications Act) by the other Bill in this package, i.e., the Sales Tax Laws Amendment Bill 1990.

As the provisions in each of the Sales Tax (Nos. 1-9) Amendment Bills 1990 are expressed in similar terms, the corresponding clauses of each are dealt with collectively in the following notes.

Clause 1 : Short title etc.

Clause 1 of each Bill formally states the citation of the amending Act and refers to the relevant Sales Tax Act as the Principal Act.

Clause 2 : Commencement

By clause 2 of each Bill, the amending Acts are to be taken to have commenced on 1 May 1990. But for this clause in each Bill, the amending Acts would - by reason of subsection 5(1A) of the Acts Interpretation Act 1901 - come into operation on the twenty-eighth day after the date of Royal Assent.

Clause 3 : Rates of tax

This clause will amend section 4 of each the Principal Acts. Section 4 in each Act specifies the rates at which tax is imposed on the sale value of goods.

The amendments made by paragraphs (a), (b) and (c) of clause 3 declare a rate of tax of 50% for goods that are listed in the new Sixth Schedule (i.e., motor vehicles with a wholesale price above \$28,793).

Clause 4 : Application of amendments

By clause 4 of each Bill, the amendment made by the Bill will apply to sales (and other taxable transactions, acts and operations) of motor vehicles occurring after the commencement of the Bill, i.e., on or after 1 May 1990 (refer notes on clause 2).

SALES TAX LAWS AMENDMENT BILL 1990PART 1 - PRELIMINARYClause 1 : Short title

Clause 1 provides for the amending Act to be cited as the Sales Tax Laws Amendment Act 1990.

Clause 2: Commencement

This Bill, as with the sales tax rating Bills included in this package (see earlier notes) is, by this clause, to commence on 1 May 1990. But for this clause the Bill would - by reason of subsection 5(1A) of the Acts Interpretation Act 1901 - come into operation on the twenty-eighth day after the date of Royal Assent.

PART 2 - AMENDMENT OF THE SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT 1935Clause 3 : Principal Act

This clause provides for the Sales Tax (Exemptions and Classifications) Act 1935 to be referred to in this Part as the "Principal Act".

Clause 4 : Second Schedule

Goods covered by the Second Schedule to the Principal Act are taxed at the rate of 30%. Item 61 in that Schedule covers motor vehicles with a wholesale price greater than \$28,793. As these vehicles are now to be taxed at the rate of 50% clause 4 will amend the Second Schedule to omit item 61.

Clause 5 : Fourth Schedule

The Fourth Schedule to the Principal Act covers certain commercial vehicles that are taxed at the general rate of 20%. Motor vehicles that are taxed at 30%, i.e., vehicles covered by item 61 in the Second Schedule, are excluded from the Fourth Schedule by sub-item 1(2) - this ensures that these vehicles are not subject to tax at the lower 20% rate under the Fourth Schedule.

Clause 5 will omit the reference in sub-item 1(2) in the Fourth Schedule to "item 61 in the Second Schedule" and substitute a reference to "item 1 in the Sixth Schedule" - item 1 in that Schedule will cover vehicles to be taxed at the new 50% rate and is added to the Principal Act by Schedule 1 of this Bill (refer to later notes on Schedule 1).

Clause 6 : Fifth Schedule

This clause amends the Fifth Schedule to the Principal Act by omitting from item 3 in the Schedule the reference to "item 61 in the Second Schedule" and substituting a reference to new "item 1 in the Sixth Schedule". The Fifth Schedule covers a variety of vehicles that are taxed at the general rate of 20%. This amendment will ensure that vehicles covered by the new Sixth Schedule are excluded from the Fifth Schedule and not taxed at the lower rate of 20%.

Clause 7 : Insertion of Sixth Schedule

This clause adds to the Principal Act a new Sixth Schedule, set out in Schedule 1 to this Bill, which will cover motor vehicles with a wholesale sale value above \$28,793 (refer later notes on Schedule 1). The rate of tax to be applied to goods covered by the Sixth Schedule is 50%. These vehicles were previously covered by item 61 in the Second Schedule which is omitted by clause 4 of this Bill (refer earlier notes on that clause) and taxed at the 30% rate.

PART 3 - AMENDMENT OF OTHER ACTSClause 8 : Amendment of other Acts

By clause 8 the Acts specified in Schedule 2 of this Bill are amended as set out in the Schedule. Schedule 2 amends Sales Tax Acts (11A & 11B) 1985 (refer to later notes on Schedule 2 which explain these amendments).

PART 4 - APPLICATION OF AMENDMENTSClause 9 : Application of Amendments

The amendments made by this Bill will apply to sales (and other taxable transactions, acts and operations) occurring after the commencement of this Act, i.e., on or after 1 May 1990 (refer to notes on clause 2).

It is common, as is the case with this Bill, for extensions of the sales tax base or increases in the rates of sales tax to take effect before the amending legislation receives the Royal Assent. As a consequence, but for section 12F of the Sales Tax Procedure Act 1934 (the Procedure Act), persons would be required (on a retrospective basis) to do or not to do certain things - such as to remit sales tax - before the amending legislation becomes law. Once the amending legislation is enacted, but for section 12F of the Procedure Act, a person who has failed to do or not to do certain things required under the sales tax law, such as remitting the sales tax payable on transactions since the date of effect, technically and retrospectively would be liable to

prosecution for an offence or liable to additional tax by way of penalty.

Section 12F ensures, however, that any amendments made to the sales tax law do not result in a person being liable to prosecution for an offence or liable to additional tax by way of penalty for acts or omissions before the 28th day after the day on which the amending legislation receives the Royal Assent. Consistent with that, obligations arising from amendments that should be met before the 27th day after Royal Assent is given to the amending legislation do not have to be formally met before that day.

For the purposes of the amendments made by these Bills, although the increased rate of tax will be payable in respect of wholesale sales (and other taxable dealings) from 1 May 1990, section 12F of the Procedure Act operates so that the increased amount of tax, i.e., the difference between tax at 30% and 50%, payable on taxable dealings that occur in the period commencing 1 May and ending on the 27th day after the Bills receive the Royal Assent are not required to be remitted to the Australian Taxation Office until the 27th day after these Bills receive the Royal Assent.

SCHEDULE 1NEW SCHEDULE TO BE INSERTED IN THE SALES TAX
(EXEMPTIONS AND CLASSIFICATIONS) ACT 1935Sixth Schedule

The new Sixth Schedule is added to the Principal Act by clause 7 of this Bill (refer earlier notes on that clause). Goods covered by the new Schedule are to be taxed at the rate of 50%.

Item 1

This item describes certain "luxury" motor vehicles that are to be subject to sales tax at the rate of 50%.

Sub-item 1(1) describes the motor vehicles to which the 50% rate is to apply, as all motor cars and station wagons, including vehicles known as four-wheel drive vehicles. However, sub-item 1(2) narrows the range of vehicles to which item 1 will apply by specifying that sub-item 1(1) does not apply unless the sale value of a motor vehicle exceeds the amount ascertained in accordance with the formula -

Depreciation limit

$$\frac{1}{1 - \text{Statutory fraction}} + \text{Sales tax rate}$$

The terms used in the formula, i.e., "Depreciation limit", "Statutory fraction" and "Sales tax rate", are defined in sub-item (2) as follows:

"Depreciation limit" is \$42,910 in the case of a taxable dealing that occurs during the period 1 May 1990 and 30 June 1990, inclusive. This amount is the present motor vehicle depreciation limit determined under section 57AF of the Income Tax Assessment Act 1936 in relation to the 1989/90 year of income. The amount will vary in each subsequent 12 month period from 1 July 1990 in line with the indexation movements as determined under that section.

"Statutory fraction" is defined to mean the decimal fraction 0.225. In practical terms, this represents the 22.5% reduction in the tax-exclusive retail price, agreed between the Commissioner of Taxation and the motor vehicle industry, that is taken into account in determining the taxable uniform sale value of most motor vehicles. If a new percentage reduction should

be agreed upon in the future, the definition provides that the statutory fraction may be any other decimal fraction the Commissioner determines by notice in writing served on the taxpayer.

"Sales tax rate" means the rate of sales tax imposed by the Sales Tax Act (No.1) 1930 on the sale value of goods covered by the Fifth Schedule to the Principal Act, currently 20%. This rate represents the rate of sales tax on vehicles below the "luxury threshold" in force at the time a motor vehicle is sold or leased. In calculating the wholesale price of vehicles to which item 1 applies the "Sales tax rate" would be expressed as the decimal fraction 0.2 until such time as the rate imposed on goods covered by the Fifth Schedule changes.

In practical terms, a motor car or station wagon dealt with in a taxable manner on or after 1 May 1990 and until any value of the formula changes will be subject to tax at the 50% rate if the wholesale value of the vehicle exceeds \$28,793 - the amount calculated using the formula.

By the operation of sub-item (3) a further category of vehicle, namely motor vehicles that are specially fitted out for transporting disabled persons while seated in wheelchairs, is excluded from sub-item (1) and not subject to the 50% rate of tax. These vehicles, which often, because of their value, have until now been subject to tax at the rate of 30%, will fall to be taxed at the general rate of 20% with effect from 1 May 1990.

The vehicles that will be covered by sub-item (3) are:

- . vehicles, known as 'Metrocabs', that are specially modified (with floor clamps to hold wheelchairs in place and ramps to facilitate wheeled access in and out of the vehicle) to transport disabled persons while seated in wheelchairs; and
- . other vehicles that are fitted out in a similar fashion to 'Metrocabs' for transporting disabled persons while seated in wheelchairs.

SCHEDULE 2

AMENDMENTS OF OTHER ACTS

Sales Tax Acts (11A & 11B) 1985

The rates of sales tax imposed by these Acts are set out in section 6 of each Act. Paragraph (c) of section 6 in each Act declares a rate of 20% for goods not covered by the Second, Third, Fourth and Fifth Schedules.

Schedule 2 of the Bill inserts a reference to the new (Sixth Schedule (refer earlier notes on Schedule 1 of this Bill) in paragraph (c) of section 6 in each Act.











