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THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA

HOUSE OF REPRESENTATIVES

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SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)  
AMENDMENT BILL 1991

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EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer,  
the Hon. John Kerin, M.P.)



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## General Outline and Financial Impact

The *Sales Tax (Exemptions and Classifications) Amendment Bill 1991* will amend the sales tax law by making the following changes:

- Exempting goods used to modify a motor vehicle to transport a person with a physical disability.

**Financial impact :** The cost to revenue will be \$4m in a full year.

- Simplifying the existing exemption for goods designed and manufactured expressly for use by persons with disabilities.

**Financial impact :** The cost of this measure will be negligible.

- Limiting the exemptions for new motor vehicles for use by certain Defence Force veterans and other persons with specific disabilities.

**Financial impact :** This will result in a revenue gain of \$0.5m in a full year.

The net cost of the proposed changes will be \$3m for 1991-92 and \$3.5m in a full year.

The changes will apply to any taxable dealings that occur after 3.00pm on 20 August 1991.

## **A Goods used in the modification of a motor vehicle to enable the transportation of a passenger with a disability**

### **1. Background**

For convenience, the *Sales Tax (Exemptions and Classifications) Act 1935* will be referred to as the "E & C Act" in this Explanatory Memorandum. The Schedules to the E & C Act will simply be referred to by their number e.g., the First Schedule.

At present, a sales tax exemption is available for goods to be used in the modification of a motor vehicle solely for the purpose of adapting it for **driving** by a person suffering from a physical impairment. The exemption is provided by item 42C in the First Schedule. However, no sales tax exemption is currently available for goods to be used in the modification of a motor vehicle to enable the **transportation** of a passenger suffering from a physical impairment.

### **2. Explanation of the Amendment**

The Bill will exempt goods to be used in the modification of a motor vehicle, new or secondhand, solely for the purpose of adapting it for transporting a passenger suffering from a physical impairment. Item 42C of the First Schedule will be amended to provide this new exemption. [*Clause 4(a), item 42C(b)*]

For example, an exemption would be available for a general purpose tailgate loader or hoist installed in the rear or the side of a second hand passenger van solely to allow access for a passenger in a wheelchair. Similarly, heavy duty springs and materials used to reinforce the floor of the van because of the additional weight would be exempt. Clamps and brackets fitted to the vehicle to hold the wheelchair in place would also be exempt.

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## **B Goods designed and manufactured expressly for people with disabilities**

### **1. Background**

At present, certain goods designed and manufactured expressly for use by persons suffering from sickness, disease or disablement are exempt from sales tax. This exemption is provided by item 123 in the First Schedule.

For goods to be exempt under sub-item 123(1), two tests must be satisfied:

- . firstly, the goods must be designed and manufactured expressly for use by persons suffering from sickness, disease or disablement (including blindness or deafness); and
- . secondly, the goods must not be ordinarily used by persons who are not suffering from sickness, disease or disablement.

In practical terms, the second test has little effect on the types of goods eligible for the exemption. It is the first test regarding the development of the product expressly for the affected people which is the principal test for eligibility for exemption.

### **2. Explanation of the Amendment**

The Bill will simplify sub-item 123(1) by removing the second test [*Clause 4(b)*].

This will improve the clarity of the legislation. The removal of the second test will also make it easier for manufacturers and distributors of such goods to determine whether exemption under item 123 applies, as it will no longer be necessary to determine how likely it is that the goods will be used by persons who are not suffering from sickness, disease or disablement.

Goods presently exempt under the item will remain exempt. Examples of goods which will continue to be exempt under the simplified item include: braille machines, talking book machines designed expressly for operation by blind people and machines specifically designed for carrying disabled persons in wheelchairs up and down stairs.

## **C Exemptions for motor vehicles for certain defence force veterans and other people with specific disabilities**

### **1. Summary of Changes**

The Bill will place a limit on the sales tax exemptions available for new motor vehicles for use by certain defence force veterans and other people with specific disabilities. Sales tax exemptions for motor vehicles under items 135 and 135A of the First Schedule will be limited to motor vehicles with a wholesale sale value which is equal to or below the "luxury" motor vehicle threshold of \$30,505 (being the amount above which sales tax on motor vehicles is currently payable at 30%).

For the purpose of these calculations, the sale value will be the value prior to any modifications required expressly to adapt the motor vehicle to enable a person specified in items 135 or 135A to drive or to be transported in the vehicle.

Where the sale value of the motor vehicle exceeds the threshold, the vehicle will be taxable. However, in calculating the tax payable in these circumstances, tax will be payable on a reduced sale value.

### **2. Background**

#### **Exemption for motor vehicles for use by certain defence force veterans**

Item 135 of the First Schedule exempts motor vehicles (and parts for motor vehicles) for use (and not for sale) in the personal transportation of a veteran who:

- . has lost a leg or both arms or has had a leg, or both arms, rendered permanently and wholly useless - see item 135(a); or
- . receives a special rate of pension under section 24 of the *Veterans' Entitlements Act 1986* - see item 135(b). These pension recipients include veterans who are blinded in both eyes, or who are totally and permanently incapacitated and are therefore prevented from continuing to undertake paid employment as a result of that incapacity.

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## Exemption for motor vehicles for use by people with specific disabilities

Item 135A of the First Schedule exempts motor vehicles (and parts for motor vehicles) for use (and not for sale) in the transportation to and from gainful employment of a person who is certified to have lost the use of one or both legs to such an extent that he or she is permanently unable to use public transport. It is the Chief Medical Officer (as delegate of the Secretary of the Department of Community Services) who certifies that a person has such an incapacity.

The exemptions under items 135 and 135A are presently open-ended, i.e., there is no limit on the price of the motor vehicles which may be purchased free of sales tax.

## Current taxation of motor vehicles

Most passenger and commercial vehicles are subject to a 20% rate of sales tax (these vehicles are included in the Fourth and Fifth Schedules). There is an exception for passenger motor vehicles that are covered by sub-item 61(1) of the Second Schedule. These motor vehicles are subject to sales tax at the rate of 30%.

### *The "luxury" motor vehicle threshold*

Motor vehicles are covered by sub-item 61(1) if they have a wholesale sale value which exceeds the "luxury" motor vehicle threshold. This threshold is the amount determined under the formula set out in sub-item 61(2) of the Second Schedule.

The formula is calculated by reference to the current motor vehicle depreciation limit as determined under section 57AF of the *Income Tax Assessment Act 1936*. For the current financial year (1991-92), the threshold amount is \$30,505. This corresponds to a retail list price of \$45,462.

Motor vehicles with a wholesale sale value of more than \$30,505 are covered by sub-item 61(1) of the Second Schedule, and subject to sales tax at the rate of 30%.

Other motor vehicles (i.e., those with a wholesale sale value equal to or less than \$30,505) are not covered by sub-item 61(1) and are taxed at 20%.

*Vehicles fitted out for transporting disabled persons while seated in wheelchairs*

However, there is a further exception to the application of the 30% rate for motor vehicles specially fitted out for transporting people with disabilities **while seated** in wheelchairs. This exception is contained in sub-item 61(3) of the Second Schedule, and it provides that sub-item 61(1) does not apply to such vehicles. These vehicles are taxed at 20%, even if they have a wholesale sale value of more than the threshold amount of \$30,505.

### **3. Clauses involved in the Changes**

**Clause 3 :** Inserts (in the E & C Act) section 6AE which provides that sales tax is not payable on a proportion of the sale value of certain motor vehicles for people with disabilities.

**Clause 4(c) :** Amends items 135 and 135A of the First Schedule to insert new paragraphs which provide that :

- . exemption will no longer be available for vehicles with a sale value above the "luxury" motor vehicle threshold; and
- . for these purposes, the sale value will be reduced by the value of certain modifications to enable the person with the disability to drive or be transported in the vehicle.

**Clause 5 :** Amends sub-item 61(3) of the Second Schedule to apply the same treatment to motor vehicles that are specially fitted out for transporting disabled persons while seated in wheelchairs where those vehicles are for use by certain veterans and people with specific disabilities.

### **4. Explanation of the Changes**

The Bill will amend items 135 and 135A by adding at the end of each of the existing items new sub-items (2) and (3). Consequently, the former items will now be automatically renumbered to be sub-items 135(1) and 135A(1) respectively. The Bill does not amend the wording of the former items in any way. *[Clause 4(c)]*



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**Which vehicles will remain exempt?**

A limit will be placed on the sales tax exemptions available under sub-items 135(1) and 135A(1) for new motor vehicles for use by certain defence force veterans and other people with specific disabilities.

Sales tax exemptions for new motor vehicles under new sub-items 135(1) and 135A(1) will only be available for motor vehicles with a wholesale sale value which is equal to or below the "luxury" motor vehicle threshold. *[sub-item 135(2) and sub-item 135A(2)]*

As explained earlier, the threshold is the amount above which sales tax on motor vehicles is currently payable at 30%. This amount is determined under the formula set out in sub-item 61(2) of the Second Schedule. In the 1991-92 financial year, this threshold is a wholesale sale value of \$30,505, which corresponds to a retail list price of \$45,462.

**How do you determine whether exemption is available for a motor vehicle with a sale value which includes the cost of certain modifications?**

For the purpose **only** of determining whether a motor vehicle is exempt under sub-items 135(1) or 135A(1), the sale value will be reduced by so much of that value as is attributable to certain modifications. These are modifications made to the motor vehicle solely for the purpose of adapting it:

- . for **driving** by the person with the disability described in sub-item 135(1) or sub-item 135A *[sub-item 135(3)(a) and sub-item 135A(3)(a)]*; or
- . for **transporting** the person with the disability described in sub-item 135(1) or sub-item 135A(1) *[sub-item 135(3)(b) and sub-item 135A(3)(b)]*.

This provision will only apply to modifications which are made to new motor vehicles prior to the transaction in respect of which tax is payable (i.e., prior to the taxing point). Specifically, it relates to modifications made **before** the last wholesale sale of a vehicle, but not to modifications made **after** that sale. It should be noted that goods used in modifications made after that sale would be exempt under the amended item 42C.

**Example 1**

A new motor vehicle is to be purchased by a veteran who has lost both arms as a result of service in the Defence Force. The vehicle is for use in his or her personal transportation and not for sale. The motor vehicle would be exempt from sales tax under existing item 135. The veteran requires that the vehicle be specially modified solely for the purpose of enabling him or her to drive the vehicle. The modifications are carried out before the veteran purchases the vehicle and are made prior to the last wholesale sale of the vehicle. The total wholesale sale value of the motor vehicle is \$35,000, *including* the cost of modifications valued at \$10,000.

To determine whether exemption is available under sub-item 135(1), the total sale value is first reduced by the amount of the sale value which is attributable to the cost of the modifications. In this case, the adjusted sale value is :

$$. \quad \$35,000 - \$10,000 = \$25,000$$

As the adjusted sale value of \$25,000 is less than the 1991-92 "luxury" threshold of \$30,505, the motor vehicle would be exempt from sales tax under sub-item 135(1).

**Example 2**

The facts are the same as in Example 1, except that in this example, the total wholesale sale value of the new motor vehicle is \$65,000, *including* the cost of the modifications. \$15,000 of that sale value is attributable to the cost of the modifications.

To determine whether exemption is available under sub-item 135(1), the total sale value is first reduced by the amount of the sale value which is attributable to the cost of the modifications. In this case, the adjusted sale value is :

$$. \quad \$65,000 - \$15,000 = \$50,000$$

As the adjusted sale value of \$50,000 is greater than the 1991-92 "luxury" threshold of \$30,505, the motor vehicle would not be exempt from sales tax under sub-item 135(1). This vehicle will be taxed at 30% on a reduced sale value as discussed below.

## How does the new limit on sales tax exemption for certain vehicles work?

A "cap" (i.e., a maximum sales tax benefit) will effectively be placed on the sales tax exemptions previously provided under items 135 and 135A. The cap will be equivalent to the sales tax payable on a motor vehicle with a wholesale sale value equal to the "luxury" motor vehicle threshold (in 1991-92 this threshold is \$30,505). In 1991-92, this cap is \$6,101, which is the tax payable at a 20% rate on a motor vehicle with a wholesale sale value of \$30,505.

For motor vehicles described in sub-items 135(1) and 135A(1) which have a sale value greater than the "luxury" threshold, the applicable sales tax payable on the vehicles will be reduced by the cap amount (i.e., \$6,101 in 1991-92). The Bill will achieve this result by providing that, for these vehicles, sales tax is not payable on a proportion of the sale value of the vehicle. The amount of the sale value that will not be subject to tax will be an amount equal to two thirds of the "luxury" threshold. (In 1991-92, this amount is \$20,337, i.e., two thirds of \$30,505.)

### *[Clause 3. Section 6AE of the E & C Act]*

The two thirds fraction in section 6AE always achieves the desired result, as can be seen from the following calculations (which use 1991-92 figures):

- . sales tax is payable at 20% on a motor vehicle with a sale value equal to the "luxury" threshold amount of \$30,505
- . 20% of \$30,505 = \$6101
- . \$6101 = the maximum benefit to be provided where a motor vehicle with a sale value exceeding the threshold is purchased under sub-item 135(1) or 135A(1)
- . the full sale value of such a vehicle is taxed at a rate of 30%
- . sales tax payable at 30% of \$20,337 (i.e., **two thirds** of \$30,505) = \$6101.

### **Yearly adjustments in the value of the benefit**

As the "luxury" threshold changes with each annual indexation adjustment in the motor vehicle income tax depreciation limit, the maximum benefit will alter accordingly. The value of the cap will thus be maintained in real terms.

**How do you calculate the tax payable on a motor vehicle for use by certain defence force veterans or other person with disabilities where the sale value exceeds the "luxury" threshold?**

Where a motor vehicle for use by a person described in sub-item 135(1) or sub-item 135A has a wholesale sale value greater than the "luxury" threshold (i.e., greater than \$30,505 in 1991-92), then sales tax will be payable on the full sale value of the vehicle at the same 30% sales tax rate as for other vehicles which are covered by sub-item 61(1) of the Second Schedule. However, as explained above, sales tax will not be payable on the amount of the sale value which equals two thirds of the current "luxury" threshold.

For transactions in the 1991-92 financial year, the sale value of all such vehicles will first be reduced by \$20,337, and the tax payable will be calculated at 30% of the remaining amount.

**Example 3**

A new motor vehicle is to be purchased by a veteran who has lost both arms as a result of service in the Defence Forces. The vehicle is for use in his or her personal transportation and not for sale. However, the total wholesale sale value of the motor vehicle is \$40,000 (i.e., it exceeds the "luxury" threshold of \$30,505). The motor vehicle is not exempt from sales tax under sub-item 135(1).

The vehicle is covered by sub-item 61(1) of the Second Schedule because its full sale value exceeds \$30,505, and 30% tax will be payable on the sale value.

For the purpose of determining the amount of tax payable on the motor vehicle, the total sale value (*including* the cost of any modifications to enable the person with the disability to drive or be transported in the vehicle) is first reduced by \$20,337 (i.e., two thirds of \$30,505). In this case, the tax payable is calculated as follows :

- . the full sale value is first reduced by \$20,337
- . the reduced sale value =  $\$40,000 - \$20,337 = \$19,663$
- . the sales tax payable on the reduced sale value =  $\$19,663 @ 30 \text{ per cent}$
- . therefore, the total sales tax payable = \$5899.

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**What treatment will apply to motor vehicles specially fitted out to transport disabled people while seated in wheelchairs?**

Under the existing law, motor vehicles that are specially modified to transport disabled persons while seated in wheelchairs are taxable at the general sales tax rate (i.e., 20 per cent). This 20% rate applies regardless of whether the sale value of the vehicle exceeds the threshold. See sub-item 61(3) of the Second Schedule. This sub-item was introduced to ensure that specially modified vehicles that did not qualify for exemption under items 135 or 135A were taxed at the general rate rather than the "luxury" rate of sales tax.

The Bill will provide that if such a vehicle is for use by a person with a disability covered by sub-items 135(1) and 135A(1) *and* its sale value exceeds the "luxury" threshold, then it will be taxed in the same way as other vehicles covered by sub-items 135(1) and 135A(1). *[Clause 5. Sub-item 61(3) of the Second Schedule]*

That is, if the sale value of such a vehicle is equal to or less than the "luxury" threshold, it will be exempt under sub-item 135(1) or sub-item 135A(1) as the case may be. However, if its sale value exceeds the threshold, then it will be taxable at 30% on the amount of the sale value remaining after deducting \$20,337 (in 1991-92 figures).

## **D. Commencement of changes**

The changes made by the Bill will apply to sales (and other taxable transactions, acts and operations) occurring after the commencement of the Bill, i.e., after 3.00pm, by standard time in the Australian Capital Territory, on 20 August 1991. *[Clauses 2 and 6]*





