

1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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Act No. 89-1988 SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)  
AMENDMENT BILL 1988

ACT NO 88-1988 SALES TAX ASSESSMENT (NO.1)  
AMENDMENT BILL 1988

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EXPLANATORY MEMORANDUM

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

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## GENERAL OUTLINE

### Sales Tax (Exemptions and Classifications) Amendment Bill 1988

This Bill will amend the Sales Tax (Exemptions and Classifications) Act 1935 -

- . to tax at the 20% rate currently exempt beer with an alcohol content of more than 1.15% by volume;
- . to tax at the 20% rate currently exempt plastic envelopes, courier type bags and goods used by retailers to wrap up or secure goods for marketing or delivery;
- . to increase from 10% to 20% the rate of sales tax on wrapping materials marketed for household use;
- . to tax at the 10% rate currently exempt :
  - .. containers used by retailers in marketing take-away foodstuffs,
  - .. mixes marketed for use in the manufacture of thick shakes and ice creams,
  - .. muesli bars and other health food bars;
- . to ensure that packaged coffee, chocolate and malt flavoured milk drinks that contain less than 95 per cent milk are subject to tax at the rate of 20%;
- . to reduce from 30% to 20% the rate of sales tax on :
  - .. photographs and photographic materials,
  - .. toiletries, perfumes and cosmetics;
- . to exempt from tax all aircraft except gliders, (at present aircraft are either exempt if used for business purposes or taxable at the 20% rate);
- . to exempt from tax food for fish and crustaceans farmed for commercial purposes currently taxable at the 20% rate;
- . to exempt from tax plain soy milk currently taxable at the 20% rate; and
- . to reduce from 20% to 10% the rate of sales tax on flavoured soy milk.

Sales Tax Assessment (No.1) Amendment Act 1988

This Bill will amend the Sales Tax Assessment Act (No.1) 1930 -

- . to amend the sale value provisions so that where a manufacturer sells goods only by retail or only retails goods through an agent, the sale value, for tax purposes, is based on the manufacturer's own costs and profit and not, as is currently the case, the price charged by another manufacturer selling identical goods by wholesale.

FINANCIAL IMPACT

The proposal to remove the sales tax exemption for beer is expected to produce revenue of \$330 million in 1988-89 and \$420 million in a full year.

However, the related reform of the beer excise is expected to produce a decrease in revenue of \$730 million in 1988-89 and \$865 in a full year.

The net loss from this proposal is expected to be \$400 million in 1988-89 and \$445 million in a full year.

Other measures in the proposed legislative package are expected to produce -

- . a net revenue loss of \$6.6 million in 1988-89;
- . a net revenue loss of \$7 million in a full year; and
- . a decrease of 0.03 percentage points in the CPI.

BROAD FRAMEWORK OF SALES TAX LAW

The following broad framework of the sales tax law is provided to assist in an understanding of the changes being made by this Bill.

Sales tax is a single stage tax levied on, or in relation to, goods. In general, it is designed to fall at the wholesale level, but is payable by manufacturers and importers as well as by wholesalers. The tax in each case is based on a sale value equivalent to the wholesale value of the goods. The overall intention is that goods that are produced in, or imported into, Australia for use or consumption here will bear the tax unless they are specifically exempted from it. Second-hand goods that have been used in Australia are not ordinarily taxable, but imported goods that have been used overseas are normally taxable on a basis corresponding to that applicable to new goods.

The levy is not limited to sales. Where goods have not already borne tax it could, for example, fall on leases of those goods or on the application of those goods to a taxpayer's own use. It may also fall on the entry for home consumption of imported goods where they are not entered for sale by a wholesaler, e.g., where they are entered by a retailer or consumer. Where a royalty is payable in relation to goods but is not part of the sale of the goods, tax is payable by the person paying the royalty at the rate applicable to the goods.

Tax is also levied on certain Australian manufactured goods sold by inwards duty free shops to persons who, if they had imported those goods as passengers or crew of aircraft arriving in Australia, would have been liable to tax.

Manufacturers and wholesalers are required to register with the Taxation Office, unless they deal only in exempt goods. By quoting their registration certificate number when purchasing goods or entering imported goods for home consumption they can acquire the goods free of tax. The system of quoting certificates is designed to defer payment of the tax until the last wholesale sale.

Registered manufacturers and wholesale merchants are required to furnish monthly returns of their transactions to the Taxation Office. The tax is basically self-assessed with persons furnishing returns required to calculate the tax payable on transactions and to forward payment of that tax with each return. Importers are required to pay tax when clearing goods through Customs unless they are registered persons who quote their certificates for the goods.

When selling goods, sales taxpayers are restricted to passing on to the retailer or customer an amount equal to the tax that they are liable to remit to the Taxation Office.

The sales tax legislation is contained in a number of separate Acts. In addition, there is a series of Regulations that are complementary to those Acts. The Acts and Regulations must be regarded as a whole to properly understand the wholesale sales tax.

There are eleven basic Sales Tax Acts (Rating Acts) that specify the rates at which tax is payable. Where royalties are payable in respect of goods, and the royalties are not subject to tax under the Rating Acts, three further Sales Tax Acts impose tax on the royalty payments but at the rates that are applicable in relation to the particular goods under the basic Rating Acts. Each of the basic Rating Acts has a complementary Sales Tax Assessment Act providing the machinery for assessment, collection and administration of the tax imposed by the

related Sales Tax Act. There is also a Sales Tax Assessment Act for the three Sales Tax Acts relating to royalty payments. The subjects of taxation and the various Assessment Acts and Sales Tax Acts are set out in the following table -

<u>Assessment Acts and Sales Tax Acts</u>	<u>Subjects of Taxation</u>
Sales Tax Assessment Act (No. 1) and Sales Tax Act (No. 1)	Goods manufactured in Australia and sold by the manufacturer or treated by the manufacturer as stock for sale by retail or applied to the manufacturer's own use.
Sales Tax Assessment Act (No. 2) and Sales Tax Act (No. 2)	Goods manufactured in Australia and sold by a purchaser from the manufacturer.
Sales Tax Assessment Act (No. 3) and Sales Tax Act (No. 3)	Goods manufactured in Australia and sold by a person not being either the manufacturer or a purchaser from the manufacturer.
Sales Tax Assessment Act (No. 4) and Sales Tax Act (No. 4)	Goods manufactured in Australia and applied to own use by a purchaser who quoted a sales tax certificate number when purchasing the goods.
Sales Tax Assessment Act (No. 5) and Sales Tax Act (No. 5)	Imported goods entered for home consumption in Australia.
Sales Tax Assessment Act (No. 6) and Sales Tax Act (No. 6)	Goods imported into Australia and sold by the importer or applied to own use by the importer.
Sales Tax Assessment Act (No. 7) and Sales Tax Act (No. 7)	Goods imported into Australia and sold by a person other than the importer.

Sales Tax Assessment Act  
(No. 8) and Sales Tax Act  
(No. 8)

Goods imported into Australia and applied to own use by a purchaser who quoted a sales tax certificate number when purchasing the goods.

Sales Tax Assessment Act  
(No. 9) and Sales Tax Act  
(No. 9)

Goods in Australia dealt with by lease.

Sales Tax Assessment Act  
(No. 10) and Sales Tax Act  
(No. 10A), Sales Tax Act  
(No. 10B) and Sales Tax Act  
(No. 10C)

Certain royalties payable in respect of goods.

Sales Tax Assessment Act  
(No. 11) and Sales Tax Act  
(No. 11A) and Sales Tax Act  
(No. 11B)

Australian manufactured airport shop goods purchased by relevant travellers, sold to persons other than relevant travellers or applied to own use by the proprietor of an inwards duty free shop.

Another Act, the Sales Tax (Exemptions and Classifications) Act 1935, contains a First Schedule that lists classes of goods that are exempt from tax and specifies circumstances in which particular exemptions apply. Further Schedules list the classes of goods that are taxable at specified rates.

Goods not listed in any of the Schedules to that Act are taxable at what is called the "general rate" - currently 20%. Exemptions from tax set out in this Act extend to otherwise taxable goods that are for use by specified organisations or are dealt with in a particular manner.

A further Act, the Sales Tax Procedure Act 1934, provides the machinery for the collection and recovery of sales tax but obviates the necessity to establish under which of the various Assessment Acts a particular transaction falls.

The Taxation Administration Act 1953 contains provisions relating to offences and prosecution of offences against the various taxation laws including the sales tax law.

MAIN FEATURESSales Tax (Exemptions and Classifications) Amendment Bill 1988

The present wholesale sales tax (WST) operates, as was explained earlier in these notes, to tax all goods at the general rate of 20% unless they are specified to be taxed at that rate, at a different rate or are exempt. There are five Schedules of goods contained in the Sales Tax (Exemptions and Classifications) Act 1935 - referred to in these notes as the Exemptions and Classifications Act - for this purpose.

The WST's multiple tax rate structure (exempt, 10%, 20% or 30%) and the various detailed descriptions of goods in the five Schedules to the Exemptions and Classifications Act cause problems in its application and administration.

This Bill, in conjunction with the Sales Tax Assessment (No.1) Amendment Bill 1988, is designed to remove certain classification anomalies and inconsistencies and to broaden the sales tax base.

Exempt goods to become taxable

Plastic envelopes, courier bags, bags and wrappings  
(Schedule, Part I - Amendment of First Schedule, and Part III - Amendment of Third Schedule)

Item 96 in the First Schedule to the Exemptions and Classifications Act exempts certain goods of a kind used to wrap up or secure goods for marketing or delivery. It was introduced in 1954 to assist retailers who purchased goods in bulk and marketed them in paper bags.

Paper bags are still widely used by retailers, but with many items now packaged by manufacturers, their use has diminished. Further, while the item was intended to exempt wrappings used by retailers, it has been ruled that plastic envelopes and courier type bags used to deliver documents are also exempt under this item. An anomaly exists between courier type envelopes and padded postal bags which are exempt, and ordinary postal and stationery type envelopes which are taxable at 20%. It is also difficult to distinguish plastic bags of the kind exempt under item 96 (such as plastic bags used at supermarket check-outs) from carry plastic bags and shopping bags which are taxable at 20% yet perform the same function.

Item 96 also exempts a range of general purpose wrapping materials. General purpose goods, which include goods that are close substitutes for the kind of wrapping materials exempt under item 96, are taxable at 20%.



Item 13 in the Third Schedule to the Principal Act covers the same wrapping materials as item 96 but effectively taxes them at the 10% rate when they are marketed exclusively or principally for household purposes.

This Bill will overcome these anomalies by removing item 96 from the First Schedule and item 13 from the Third Schedule to effectively tax all wrapping materials at the general rate of 20%.

Containers used by retailers to market certain foodstuffs  
(Schedule, Part I - Amendment of First Schedule and Part III - Amendment of Third Schedule)

Containers for packaged biscuits and ice cream are currently taxable at the same rate as the products they contain, i.e., the 10% rate. While biscuits and ice creams manufactured in retail outlets which sell them directly to the public for consumption are not taxable, the materials and equipment used in producing the exempt product are taxable.

However, unlike other materials and equipment used in the production process, containers used to market biscuits and ice creams manufactured in retail outlets are currently exempt from sales tax.

This Bill will remove these anomalies by imposing tax at the 10% rate on containers used by retailers to market biscuits and ice cream manufactured in retail outlets for sale direct to the public.

Containers, including plastic spoons, serviettes and refresher towels, used in marketing take-away food are currently exempt from tax if the product they contain is exempt. However, eating utensils used by eat-in restaurants are taxable at the 10% rate.

The Bill will remove this anomaly by removing the exemption available for containers used in marketing take-away food and taxing the containers at the 10% rate.

Thick shakes and ice cream  
(Schedule, Part I - Amendment of First Schedule and Part III - Amendment of Third Schedule)

When ice cream became taxable at the 10% rate in 1985, ice cream mixes marketed exclusively or principally for use in the manufacture on retail premises of ice cream for sale direct to the public also became taxable at the 10% rate. However, due to an oversight, not all ice cream mixes became taxable. Ice cream mixes which contain at least 95% milk remain exempt under item 26(2) of the First Schedule to the Exemptions and Classifications Act.

A further anomaly is that the 1985 amendment did not make thick shake mixes taxable. Thick shakes compete directly with soft serve ice cream and packaged flavoured milk which is also taxable at 10%. Exempt thick shake mixes are now being used in place of taxable ice cream mixes by retailers in the manufacture of ice cream.

This Bill will bring the sales tax treatment of all ice cream and thick shake mixes into line by removing the exemptions for ice cream mixes which contain at least 95% milk and thick shake mixes and by including these products in the Third Schedule to the Exemptions and Classifications Act.

#### Packaged flavoured milk

(Schedule, Part I - Amendment of First Schedule)

Packaged flavoured milk products containing less than 95% milk are taxable at the general rate (20%) and products containing not less than 95% milk are taxable at 10% under item 4A in the Third Schedule to the Exemptions and Classifications Act.

However, it has been argued that packaged chocolate, coffee and malt flavoured milk containing less than 95% milk may be exempt under the present sales tax law.

This Bill proposes an amendment of the First Schedule to the Exemptions and Classifications Act to ensure that chocolate, coffee and malt flavoured preparations that contain less than 95% milk are subject to tax at the 20% rate.

#### Beer

(Schedule, Part 1 - Amendment of First Schedule)

Sub-item 36(1) in the First Schedule of the Exemptions and Classifications Act exempts from tax beer manufactured for sale in Australia that contains more than 1.15% by volume of alcohol.

Sub-item III(1) operates to extend this exemption to cover beer of similar strength that is manufactured in New Zealand, Fiji, Norfolk Island, Papua New Guinea, or the Territories of Christmas Island or Cocos (Keeling) Islands and imported into Australia.

This Bill will remove the sales tax exemption for beer so that all beer will be subject to tax at the 20% rate irrespective of volume of alcohol or country of manufacture.

Bathroom fittings and sanitary ware  
(Schedule, Part III - Amendment of Third Schedule)

Household fittings and sanitary ware of a kind installed in houses or other buildings so as to become fixtures are currently taxable at the rate of 10%.

However, the wording (which dates from the early 1950s) of the item covering these goods does not readily extend to the variety of bathroom fittings and sanitary ware marketed today. It has been argued that some fittings intended to be covered by the item are exempt.

This Bill will ensure that all bathroom fittings and sanitary ware installed in buildings so as to become fixtures are taxable at the 10% rate.

Muesli bars and health food bars  
(Schedule, Part I - Amendment of First Schedule)

At present, muesli bars and health food bars are not included in the confectionery, snack food or biscuit categories for the purposes of sales tax and are therefore exempt.

This Bill will bring muesli bars and similar foodstuffs into line with confectionery, snack foods and biscuits by making them taxable at the 10% rate.

Taxable goods to become exempt

Aircraft  
(Schedule, Part I - Amendment of First Schedule)

At present aircraft are exempt from sales tax only when used principally for business purposes. There are, in fact, very few taxable sales of aircraft but the costs of administering the current law is high.

This Bill will exempt all aircraft other than gliders (including motorised gliders, hang gliders and motorised hang gliders).

Soy milk  
(Schedule, Part I - Amendment of First Schedule and Part III - Amendment of Third Schedule)

Plain milk is currently exempt from sales tax. Soy milk is sold in competition with milk and in many cases it is used as a substitute.

This Bill will exempt beverages consisting wholly or principally of soy milk.

Packaged flavoured milk is currently taxable at the rate of 10% provided it consists of not less than 95% milk. In line with this, the Bill will tax at the rate of 10% packaged flavoured beverages consisting principally of soy milk.

Fish food for use by fish breeders

(Schedule, Part I - Amendment of First Schedule)

At present the sales tax law provides exemption for food for livestock, poultry and birds. The exemptions are limited to food for use by persons engaged in business. Pet food for feeding to domestic dogs and cats and pet birds is taxable.

In recent years there has been a considerable expansion in the fish farming industry. However, there is no exemption for food for fish.

This Bill will bring the sales tax treatment of food for fish into line with food for animals and birds by exempting food for aquatic and marine animals bred or farmed in a commercial environment.

High rate goods reduced from 30% to 20%

(Schedule, Part II - Amendment of Second Schedule)

Personal care products

The Second Schedule to the Principal Act specifies categories of goods that are taxable at the highest rate, i.e. 30%. Goods covered by that Schedule are, in general, 'luxury' goods such as furs, jewellery, high-priced motor vehicles and audio and visual equipment. However, the Schedule also covers everyday personal care products such as perfume, shampoo, body powder, cosmetics and deodorants while similar products such as soap, toothpaste, shaving creams and after shave lotions are taxed at the 20% rate.

This Bill will resolve these anomalies by removing the everyday personal care products from the Second Schedule. As the goods will not then be specified in any Schedule to the Principal Act, they will be taxed at the general rate of 20%, rather than the 30% rate.

Photographs and photographic material

At present photographs and photographic materials such as photographic film, photographic paper and mounts are taxable at the 30% rate under the Second Schedule, while negatives, transparencies and film strips are taxed at the general rate of 20%. Thus, where an exposed film is developed and printed, two different tax rates apply - 20% for developing and 30% for printing.

With modern printing techniques, it is becoming more difficult to distinguish between photography, printing and photocopying. Printing and photocopying are taxed at the 20% rate.

Consistent with the broad objective of rationalising the WST, this Bill will bring the sales tax treatment of these goods into line by removing photographs and photographic materials from the Second Schedule. The goods (currently taxable at 30%) will then be taxed at the general rate of 20%.

Sales Tax Assessment (No.1) Amendment Bill 1988

This Bill will amend the sale value provisions of Sales Tax Assessment Act (No.1) 1930 so that where a manufacturer sells goods only by retail or only retails goods through an agent, the sale value is based on the manufacturer's own costs and profit and not, as is currently the case, the price charged by another manufacturer selling identical goods by wholesale.

The broad scheme of the WST tax is for tax to be paid on the final wholesale selling price of goods. In the case of a manufacturer selling by wholesale, tax is paid on the price for which the goods are sold, i.e., on a value which reflects the operating costs and profit of the manufacturer. That situation is also to apply to a manufacturer selling by retail. To achieve this, the Bill will amend the relevant sale value provisions to provide that tax is payable on the amount for which the goods could reasonably be expected to have been sold by the manufacturer by wholesale.

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

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)  
AMENDMENT BILL 1988

Clause 1 : Short title, etc.

Subclause (1) of this clause provides for the amending Act to be cited as the Sales Tax (Exemptions and Classifications) Amendment Act 1988).

Subclause (2) facilitates references to the Sales Tax (Exemptions and Classifications) Act 1935 that is referred to in this Bill as "the Principal Act".

Clause 2 : Commencement

By reason of subsection 5(1A) of the Acts Interpretation Act 1901, Acts come into operation on the twenty-eighth day after Royal Assent, unless otherwise specified in the Act. Except for the amendment referred to in subclause 2(2), under subclause 2(1) the amending Act is to be taken to have commenced at 8 o'clock in the evening by standard time in the Australian Capital Territory on 23 August 1988.

Under subclause 2(2) the proposed amendment to sub-item 36(1) in the First Schedule to the Principal Act is to be taken to have commenced after 23 August 1988.

Clause 3 : Amendments of Schedules to Principal Act

Clause 3 proposes that specific Schedules to the Principal Act be amended as set out in the Schedule to this Bill.

The Schedule to the Bill will amend the First, Second and Third Schedules to the Principal Act, with effect from 8 o'clock in the evening on 23 August 1988 except for the amendment to sub-item 36(1) in the First Schedule which will have effect after 23 August 1988.

The contents of the Schedule to this Bill are explained in detail later in the notes on the Schedule.

Clause 4 : Application of amendments

By subclause 4(1) the amendments proposed by this Bill apply in relation to transactions, acts and operations effected or done in relation to goods after 8 o'clock in the evening on 23 August 1988 except for the proposed amendment to sub-item 36(1) in the First Schedule to the Principal Act.

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Subclause 4(2) specifies that the amendment relating to sub-item 36(1) of the First Schedule applies in relation to transactions, acts and operations effected or done in relation to goods after midnight in the evening of 23 August 1988.

SCHEDULE

PART I : AMENDMENT OF FIRST SCHEDULE

Goods covered by the First Schedule to the Principal Act are exempt from sales tax.

Subclause 1(1) (definition of "confectionery")

Food for human consumption is exempt from sales tax by virtue of item 23 in the First Schedule to the Principal Act. Confectionery is excluded from this item and is taxed at the 10% rate.

Confectionery is defined in the First Schedule to the Principal Act to include goods marketed as confectionery or consisting principally of confectionery, popcorn, novelties, crystallised and glace fruit, crystallised or preserved ginger and edible cake decorations, but not candied peel.

This Part of the Schedule to the Bill will amend the definition of confectionery to include goods known as 'muesli bars' or 'health food bars', and similar foodstuffs. The amendment will have the effect of excluding 'muesli bars', 'health food bars' and similar foodstuffs from exemption making these goods taxable at the 10% rate.

Item 23

As previously explained, existing item 23 in the First Schedule to the Principal Act exempts from tax food for human consumption.

Goods are specified to be excluded from the exemption by paragraphs (c) to (o) (inclusive) of item 23. Paragraphs (h) and (j) exclude ice cream and ice cream mixes or similar goods.

The Schedule to the Bill will insert a new paragraph - paragraph (ja) - to exclude from exemption under item 23 thick shake mixes or similar goods.

To give full effect to the proposal to tax all ice cream, ice cream mixes and thickshake mixes at 10%, the Schedule also amends the Third Schedule to the Principal Act (see notes on Part III : Amendment of Third Schedule), and item 26 in the First Schedule (see following notes on this Part)



Sub-items 26(2) and 26(4)

Existing sub-items 26(2) and 26(4) of the First Schedule to the Principal Act exempt from tax goods, including some ice cream and thick shake mixes, that contain at least 95% milk or milk powder or similar products.

The Schedule to the Bill will amend paragraph (a) of sub-item 26(2) and paragraph (c) of sub-item 26(4), by inserting in each paragraph a reference to paragraphs (j) and (ja) of item 23. These amendments combined with the amendment of item 23 (see earlier notes on this Part) and the amendment to item 4 in the Third Schedule to the Principal Act (see notes on Part III : Amendment of Third Schedule) will ensure that all ice cream mixes and thick shake mixes (other than mixes for household use which will remain exempt) become taxable at the rate of 10%.

After Item 26

This Part of the Schedule to the Bill will insert a new item - item 26AA - in the First Schedule to the Principal Act. New item 26AA will exempt from tax beverages, that do not contain flavouring, consisting wholly or principally of soy milk.

A related amendment also made by the Bill will insert a new item (refer notes on Part III : Amendment of Third Schedule) in the Third Schedule to the Principal Act to tax at the 10% rate flavoured beverages consisting principally of soy milk.

These amendments will bring the taxation of soy milk and flavoured soy milk into line with plain and flavoured milk.

Sub-item 35A (4A)

Item 35A in the First Schedule to the Principal Act exempts a range of products for potable use. Broadly, stated, sub-items 35A(2), (3) and (4) exempt respectively coffee, cocoa and malted beverage products.

Existing sub-item 35A(4A) is designed to ensure that flavoured beverages taxable at the 10% rate do not qualify for exemption under sub-items (2), (3) and (4). The flavoured beverages taxable at the 10% rate are those that contain at least 95% milk.

Flavoured beverages that contain less than 95% milk are intended to be taxable at the 20% rate. However, item 35A does not specifically exclude beverages that contain less than 95% milk.

This Part of the Schedule to the Bill omits existing sub-item 35A(4A) and replaces it with new sub-item 35A(4A) to make it clear that beverages which contain any quantity of milk, milk powder, milk substitute or any combination of those products are not exempt under sub-items 35A(2), (3) and (4).

Sub-item 36(1)

Sub-item 36(1) exempts from sales tax beer manufactured in Australia that contains more than 1.15% by volume of alcohol. By the operation of sub-item 111(1), similar strength beers manufactured in New Zealand, Fiji, Papua New Guinea, Norfolk Island and the Territories of Christmas Island or Cocos (Keeling) Islands and imported into Australia are also exempt.

In this Part, the Schedule to the Bill omits sub-item 36(1) with the effect that all beer manufactured in Australia or manufactured in New Zealand, Fiji, Papua New Guinea, Norfolk Island or the Territories mentioned above and imported into Australia will be subject to tax at the 20% rate.

It is not necessary to amend sub-item 111(1) to give effect to this proposal.

Sub-items 82(1), 84(1) and 84(2)

Sub-items 82(1), 84(1) and 84(2) in the First Schedule to the Principal Act exempt a range of building materials.

Existing item 14 and proposed new item 14A (refer notes on Part III - Amendment of Third Schedule) in the Third Schedule of the Principal Act, tax at the rate of 10% household fittings and sanitary ware of a kind installed in buildings so as to become fixtures.

Part I of the Schedule to the Bill will amend sub-items 82(1), 84(1) and 84(2) so that goods covered by existing item 14 or proposed item 14A in the Third Schedule of the Principal Act are not exempt under the First Schedule of the Principal Act.

Sub-items 91(1) and 93(1)

Sub-item 91(1) of the First Schedule to the Principal Act provides an exemption from sales tax for containers used in marketing goods that are exempt from sales tax.

Sub-item 93(1) of the First Schedule to the Principal Act provides an exemption from sales tax for boxes, cases and crates manufactured in Australia for use in marketing goods manufactured in Australia that are exempt from sales tax.

These sub-items require amendment consequent upon amendments proposed by this Bill that will make certain containers and wrapping materials taxable by omitting item 96 from the First Schedule to the Principal Act (refer to notes on item 96 in this Part), and by inserting a new item - item 18 - in the Third Schedule of the Principal Act (refer notes on item 18 in Part III - Amendment of the Third Schedule).

Part I of the Schedule to the Bill will amend sub-items 91(1) and 93(1) to ensure that goods made taxable by the omission of item 96 from the First Schedule and the insertion of new item 18 in the Third Schedule are no longer exempt under these sub-items.

#### Item 96

Item 96 of the First Schedule to the Principal Act operates to exempt certain specified goods used to wrap or secure goods for marketing or delivery (but not for household use). Goods that have been classified as exempt wrapping materials include paper and plastic bags, and twine and adhesive tape used by retailers, courier envelopes and padded postal bags.

Part I of the Schedule to the Bill omits item 96 so that those goods now covered by this item will fall to be taxed at the general rate of 20% (see also notes on item 13 in Part III - Amendment of the Third Schedule).

#### After Item 108

A new item - item 108A - is inserted, by this Part, after item 108.

New item 108A will exempt from tax food for aquatic or marine animals farmed for commercial purposes. This item will not apply to food for fish kept for sale as pets or kept as pets.

#### Sub-item 119A(1)

Sub-item 119A(1) of the First Schedule to the Principal Act operates to exempt from tax aircraft used for business purposes.

By Part I of the Bill the sub-item is omitted and replaced by a new sub-item 119A(1) that will exempt from tax all aircraft, irrespective of whether the aircraft is used for business or recreational purposes, except for gliders (including motorised gliders) and hang gliders (including motorised hang gliders).

Aircraft that will be exempt under this proposal include ultralight aircraft

PART II - AMENDMENT OF SECOND SCHEDULE

Goods covered by the Second Schedule to the Principal Act are taxed at the 30% rate.

Items 19 to 30 (inclusive)

Items 39, 40 and 42

Items 19 to 30 (inclusive) in the Second Schedule to the Principal Act cover personal care products such as toiletries, perfumes and cosmetics.

Items 39, 40 and 42 cover photographs, slides and photographic materials respectively.

This Part of the Schedule to the Bill omits these items from the Second Schedule to the Principal Act, effectively reducing the rate of tax that applies to personal care products from 30% to the general rate of 20%.

PART III - AMENDMENT OF THIRD SCHEDULE

Goods covered by the Third Schedule to the Principal Act are taxed at the 10% rate.

Item 4

Item 4 in the Third Schedule to the Principal Act covers certain foodstuffs taxable at 10% that are excluded from the exemption for goods for human consumption provided by item 23 in the First Schedule to the Principal Act.

Part I of the Schedule to the Bill amends item 23 in the First Schedule to remove exemption for thick shake mixes (refer notes on item 23 in Part I - Amendment of First Schedule).

To give effect to the proposal to tax thick shake mixes at the same rate as comparable ice cream, and ice cream mixes, i.e., 10%, Part II of the Schedule to the Bill will amend item 4 in the Third Schedule by inserting a reference to new paragraph (ja) (item 23, First Schedule).

After item 4A

This Part will insert a new item - item 4AA - in the Third Schedule. New item 4AA covers beverages consisting principally of soy milk which contains any flavouring. These products are, by reason of their inclusion in the Third Schedule, to be taxable at the 10% rate. This will equate the sales tax treatment of flavoured soy milk products with flavoured milk products (see also notes on new item 26AA in this Schedule).

Item 13

Item 13 covers wrapping materials marketed exclusively or principally for household purposes.

The Schedule omits item 13 from the Third Schedule to the Principal Act. Consequently goods now covered by item 13 (taxable at the 10% rate) will fall to be taxed at the general rate of 20% (see also notes on item 96 in Part I - Amendment of First Schedule).

After item 14

Existing item 14 in the Third Schedule to the Principal Act covers household fittings and sanitary ware installed in buildings so as to become fixtures therein. Some doubt exists as to whether or not the item covers all the bathroom fittings and sanitary ware that is intended to be taxable at the 10% rate.

To ensure that all bathroom fittings and sanitary ware are taxable at the 10% rate, the Schedule will insert a new item - item 14A - in the Third Schedule to the Principal Act.

New item 14A will apply to all bathroom fittings and sanitary ware, except spa baths, installed in buildings so as to become fixtures therein, that are not covered by item 14 (see also notes on sub-items 82(1), 84(1) and 84(2) in Part I - Amendment of First Schedule).

After item 17

The Schedule will insert a new item - item 18 - in the Third Schedule to the Principal Act covering containers for use in marketing :

- . biscuits and ice cream manufactured on retail premises for sale by the retailer direct to the public; and
- . take-away beverages and foodstuffs irrespective of where the food is consumed.

Such containers are, by reason of their inclusion in the Third Schedule, to be taxable at the 10% rate.

SALES TAX ASSESSMENT (NO.1) AMENDMENT BILL 1988

Clause 1 : Short title, etc

Subclause 1(1) provides for the amending Act to be cited as the Sales Tax Assessment (No.1) Amendment Act 1988.

Subclause 1(2) provides for the Sales Tax Assessment Act (No.1) 1930 to be referred to in this Act as "the Principal Act".

Clause 2 : Commencement

By this clause the Bill will be taken to have commenced at 8 o'clock in the evening on 23 August 1988.

Clause 3 : Amendments relating to sale value of goods

Clause 3 proposes that the Principal Act be amended as set out in the Schedule to the Bill.

Clause 4 : Application of amendments

Clause 4 provides that the amendments of the Principal Act made by clause 3 apply in relation to transactions, acts or operations effected or done in relation to goods after 8 o'clock in the evening on 23 August 1988.

SCHEDULEAMENDMENTS RELATING TO THE SALE VALUE OF GOODS

Paragraphs 18(1)(b), 18(1B)(a) and 18B(1)(e); Subparagraph 18(1A)(a)(ii); Subsections 18(1C), 18(2), 18(3) and 18A(4)

Sections 18, 18A and 18B of the Principal Act specify sale values in respect of goods sold by a manufacturer, goods treated by a manufacturer as stock for sale by retail, goods applied to a manufacturer's own use and goods licenced by a manufacturer that embody certain information.

As explained earlier in these notes the broad scheme of WST is for tax to be paid on the final wholesale selling price of goods. Where a manufacturer does not sell goods by wholesale but only sells goods by retail, the existing sale value provisions provide, generally, that tax is payable on the price for which the manufacturer could reasonably be expected to have purchased identical goods from another manufacturer.

This Bill will amend the sale value provisions so that where a manufacturer does not sell goods by wholesale and sells goods only by retail, the sale value on which tax is payable will be the amount for which the goods could reasonably be expected to have been sold by the manufacturer by wholesale, i.e., on a value which reflects the manufacturer's own costs and profit - not the costs and profit of another manufacturer of identical goods sold by wholesale as is currently the case. In cases where the manufacturer's retail price and wholesale price are the same, the sale value under the new provisions would be that price. In other cases, in determining the wholesale sale value, it would be appropriate to exclude costs which are clearly of a retail nature.

