

1980-81-82

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SALES TAX AMENDMENT BILLS (NOS. 1A-9A) 1981

EXPLANATORY MEMORANDUM

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

General outline

This group of Bills will impose sales tax of 2½% on certain categories of goods that are presently exempt from sales tax. By these Bills, the tax is to be imposed on goods which, on or after 1 January 1982, pass the point at which sales tax becomes payable. This is ordinarily the sale from a wholesaler to a retailer.

In summary only, and subject to overriding exemptions applicable to particular industries and organisations (including Governments) the goods affected will comprise: clothing, footwear, drapery, soft furnishings, manchester, etc., building materials, books, magazines and newspapers, packaging and wrapping materials, hand tools and certain other goods, i.e., servicing equipment, construction equipment and motion picture films.

The provisions of the Bills are explained in more detail in the notes that follow.

With one exception, the rating provisions in each of the nine Bills are expressed in similar terms, and the corresponding clauses of each are accordingly dealt with collectively. The exception relates to Bill (No. 5A) and this arises from the fact that one of the exemptions being withdrawn relates only to imported goods, with which that Bill deals.

SALES TAX AMENDMENT BILLS (NOS. 1A-9A) 1981Clause 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 this clause of each Bill, the amending Acts will, as announced in the Budget Speech, come into operation on 1 January 1982. But for clause 2, the amending Acts would - by reason of sub-section 5(1A) of the Acts Interpretation Act - come into operation on the twenty-eighth day after the date of Assent.

Clause 3

Clause 3 will repeal sections 3 and 4 of each of the Principal Acts and substitute revised sections 3 and 4, together with new sections 5 and 6, that will impose sales tax of 2½% on the goods referred to earlier.

Section 3 : Imposition of tax

Section 3 of each of the Principal Acts formally imposes sales tax. The substituted section 3 will formally impose sales tax at the rates specified in section 4 upon the sale value of goods sold or otherwise dealt with in taxable circumstances on or after the commencement date. The clause will maintain the increased rates of sales tax announced in the 1981-82 Budget Speech and which have been imposed by the Sales Tax Amendment Acts (Nos. 1-9) 1981, with effect on and after 19 August 1981.

Section 4 : Rates of tax

This section sets out the rates of sales tax. The proposed substituted section will set out the rates of sales tax applicable to goods covered by the Second, Third, Fourth and Fifth Schedules to the Sales Tax (Exemptions and Classifications) Act and other goods not covered by any Schedule to that Act. These rates are:

Goods covered by the Second Schedule	30%
Goods covered by the Third Schedule	5%
Goods covered by the Fourth Schedule	17½%
Goods covered by the Fifth Schedule	17½%
Goods not covered by any Schedule, i.e., goods taxable at the general rate	17½%

These are the rates that under the Sales Tax Acts (Nos. 1-9) 1930, as amended by the Sales Tax Amendment Acts (Nos. 1-9) 1981, apply on and after 19 August 1981.

Section 5 : Further imposition of tax

This proposed section in each of the Bills will impose sales tax of 2½% on certain goods (broadly identified in the general outline above) that are at present exempt from sales tax by reason of their inclusion in the list of exemptions contained in the First Schedule to the Sales Tax (Exemptions and Classifications) Act 1935.

Sub-section (2) of proposed section 5 identifies the goods that are now exempt from sales tax imposed by section 3, because they are goods covered by items in the First Schedule to the Sales Tax (Exemptions and Classifications) Act, and which are to become taxable at 2½%. The identification is achieved by references in sub-section (2) to the relevant exemption items.

However, there are overriding exemption items in the First Schedule to the Sales Tax (Exemptions and Classifications) Act which have the effect of making otherwise taxable goods exempt from tax if the goods are for use as set out in such an overriding exemption item. The effect of such exemptions in relation to proposed section 5 is that goods covered by the items referred to in sub-section 5(2) will remain exempt from sales tax if those goods are covered by the terms of an overriding exemption.

Examples of these overriding exemptions are:

- Item 14 Machinery, implements and apparatus for use in the mining industry in carrying out mining operations.
- Item 63A Goods for use by universities and non-profit schools.
- Item 65 Goods for use by churches, in church services and religious devotion.
- Items 71 - Goods for use by Governments, representatives
81C of Governments and public bodies including non-profit hospitals and public benevolent institutions.
- Item 113 Materials to be used in goods to be manufactured.
- Items 113A Goods for use as aids to manufacture.
113B
113C

The items specified in sub-section (2) of proposed section 5, together with a summary of the goods covered by each item, are set out below.

Item 51

This item covers books, pamphlets, leaflets, periodicals, magazines and printed music (but does not include categories of such goods taxable at 17½%). Also included in the item are books, pamphlets, leaflets, periodicals or magazines issued or to be issued by or on behalf of an organisation which is not carried on for the profit of individuals, for the purpose of advertising tourist resorts or disseminating information concerning tourist traffic.

By way of illustration, item 51 includes the following types of books etc. : novels, reference books, text books, law reports, fashion books, journals and magazines, cookery and recipe books, knitting books and annual reports of certain non-profit bodies. It also covers publications such as hotel/motel guides issued by non-profit organisations.

Item 53

Maps including road and tourist maps, navigators' charts, and geographical, topographical and astronomical globes fall under this item.

Item 54

Item 54 refers to newspapers, and includes dailies, weeklies and "giveaways".

Item 58

Imported overseas travel literature or printed matter comes within item 58.

This item is relevant only for purposes of the Sales Tax Assessment Act (No. 5), relating as it does to imported matter.

Item 60

Vegetable parchment paper, waxed paper and grease-proof paper are the goods covered by item 60.

Items 82-90F

These items cover a wide range of building materials.

Among the items included are timber and timber frames, bricks, plaster, roofing materials, cement, lime and concrete, crushed rock, screenings, sand, gravel, soil, glass, boards, sheets and linings, wallpaper, metal building materials, bolts, nails, screws and other fasteners, window and door frames, solder, paints and other liquid coatings, mineral turpentine and other thinners, putties, wood fillers and wall size, metal

materials such as bars, rods, plate, sheet, angles, channel, wire and wire mesh, bitumen, bituminous emulsions and tar, asphalt and other bituminous mixtures, window fittings, cooking stoves, fire places, electrical fittings, accessories and materials used in fixed electrical installations in consumers' premises, electrical adaptors, plugs and safety devices, baths, basins and toilet pans, bathroom fittings, septic tanks, portable toilets and chemicals therefor and hot water systems (solar heating collectors are exempt under another item).

Item 96

Item 96 covers wrapping materials used to wrap up or secure goods for marketing or delivery.

Because of other provisions in the law the item principally refers to wrapping materials used in retail premises (i.e., after the goods have passed the taxing point) for wrapping goods sold to customers. Wrapping materials used as containers for exempt goods will continue to be exempt from tax under other provisions of the law.

Item 105

Sub-item (1) of this item covers hand tools of the kinds used for industrial purposes, including power-driven tools, but not including -

- (a) tools of the kinds ordinarily attached to benches, stands or fixtures;
- (b) office equipment, equipment of the kinds used for or in connection with writing or drawing or brushes of the kinds used by artists or draughtsmen; or
- (c) goods covered by an item in any other Schedule to the Sales Tax (Exemptions and Classifications) Act.

Sub-item (2) covers hand tools of the kinds used for gardening, but not power driven gardening tools which are taxable at 17½%.

Item 105(3) covers abrasive implements and apparatus of the kinds used for industrial purposes.

The types of goods coming within the terms of item 105 include carpenters' tools, paint brushes, cement workers' tools, axes and hatchets, motor vehicle tool kits, portable power tools, soldering irons, spray guns and welding electrode holders.

Item 107

Goods covered by this item include exhibition copies of motion picture films, including films to be exhibited by television, but not including exhibition copies of films for the private, domestic or personal use of the person by or for whom the copies are produced.

The item also includes goods for use in the production of motion picture films for business or industrial purposes, certain imported tourist films depicting places outside Australia, copies of those films, sound recordings produced in conjunction with such films and motion picture films exposed outside Australia by amateur photographers that are free of Customs duties.

Item 113F

Item 113F covers machinery, implements, apparatus and materials (but not including road vehicles or goods which become part of the equipment being serviced etc.) for use exclusively or primarily and principally, for business or industrial purposes, in:

- (a) servicing, repairing or reconditioning -
 - (i) motor vehicles
 - (ii) aeroplanes (including helicopters)
 - (iii) ships, boats and other vessels
 - (iv) railway rolling stock; or
 - (v) parts for any goods specified in the preceding provisions of the item;
- (b) repairing tyres including retreading and recapping;
- (c) constructing, maintaining or repairing, buildings or other structures, or roads, dams, pipelines, drains, trenches, tunnels or other works; or
- (d) repairing footwear for human wear.

The effect of the Bill will be to tax at 2½% machinery, implements, apparatus and materials for use in both the construction industry and the transport servicing industry. Neither of these industries pays sales tax on the normal output of the industry.

Items 120 and 120A

These items cover clothing, footwear, drapery, soft furnishings, piece goods, manchester and cleaning cloths.

In more detail, item 120 includes all clothing for human wear made of any material including aprons, overalls,

baby napkins, disposable pads, underwear, coats, eye shades, hats, gloves, academic and legal robes including barristers' wigs, kilts and sporrans and lodge clothing such as aprons. Protective wear such as head wear, protective pads, guards, gloves or mittens which are of a kind used exclusively or primarily and principally for sport or recreation are within the item.

Also covered by item 120 are footwear for human wear, household drapery and soft furnishings including bed sheets, pillow cases, bedspreads, loose furniture covers, mattress covers, mosquito nets, table cloths, dinner napkins, table mats, curtains, towels and tea towels, piece goods, blankets, bunny rugs, travel rugs, yarns for knitting, sewing and tapestry, handkerchiefs, buttons, fasteners for clothing and footwear, cleaning and polishing cloths, goods such as braid, ribbon, tape, elastic, lace and cords used on clothing, drapery and soft furnishings.

Item 120A covers certain sponges and synthetic sponges and other cleaning materials.

Paragraph (2)(b) of proposed section 5 will ensure that containers for goods covered by the items specified in paragraph (a) of sub-section (2) will also be subject to tax at 2½%.

Items 91-93 in the First Schedule to the Sales Tax (Exemptions and Classifications) Act allow exemption for containers, bags, boxes, crates etc. which are used for marketing goods which, in general terms, are covered by an item in the First Schedule.

It is a general principle of the sales tax law that the tax applicable to a container is the same as tax applicable to the contents. If however the contents are within the terms of an item in the First Schedule then in the terms of the relevant exemption item the container would be exempt. The proposed clause will ensure that the general principle is maintained in relation to containers for the items to be taxed at 2½%.

Similarly, goods such as blocks used in the manufacture of books and printed matter have been exempt from tax under item 52 in the First Schedule when used in the production of exempt books and printed matter. Paragraph (2)(b) of proposed section 5 will mean that such blocks etc. used in the production of printed matter now to be taxed at 2½% will also be taxed at 2½% where such goods are acquired by persons other than the printer.

Section 6 : Modification of other Acts

This section, which is the last of the sections being inserted in each Principal Act by clause 3 of each Bill, will operate so that other parts of the sales tax law will not apply to prevent proposed section 5 having the intended effect of causing goods identified in that section to be taxed at 2½%.

Paragraph (a) of proposed section 6 modifies the operation of section 20 of Sales Tax Assessment Act (No. 1) (Bill No. 1A) and section 6 in each of Sales Tax Assessment Acts (Nos. 2-9) (Bills Nos. 2A-9A).

These sections provide in general terms that sales tax shall not be payable upon the sale value of goods the sale value of which is, by virtue of the Sales Tax (Exemptions and Classifications) Act exempt from sales tax.

The purpose of paragraph (a) of section 6 is to ensure that the respective sections in the Assessment Acts do not require exemption from sales tax of goods which, but for the present Bills, would be placed in the exempt category by the Sales Tax (Exemptions and Classifications) Act.

Paragraph (b) of proposed section 6 relates to the operation of the Sales Tax (Exemptions and Classifications) Act in respect of goods covered by proposed sub-section 5(2) of each of the Bills. The paragraph means that for the purposes of section 5 of the Exemptions and Classifications Act - which is to the effect that sales tax is not payable on goods covered in items in the First Schedule to the Act - the goods identified in proposed sub-section 5(2) are to be treated as not being goods covered by the First Schedule to the Act.

Clause 4 : Saving

Clause 4 is a saving clause which will ensure that sales tax at the rates imposed by the repealed sections 3 and 4 will continue to be imposed as if those sections had not been repealed. Effectively, it ensures that tax is still payable at the previous rates of sales tax on goods sold or otherwise dealt with in taxable circumstances on or before the commencement of this legislation.