

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)

AMENDMENT BILL 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,
the Hon. Paul Keating, MP)

General outline

The Sales Tax (Exemptions and Classifications) Amendment Bill 1983 relates to that part of the sales tax law that specifies which goods are exempt from sales tax and classifies taxable goods into each of the tax-rate classes. The main purpose of the Bill is to correct a number of anomalies and inconsistencies, and to make certain structural changes, in the classification of goods between those various categories. The broad framework of the sales tax law that is at the base of these changes is set out at pages 7 to 9, the changes themselves being broadly as follows:-

Goods already taxable but which will now be taxable at higher rates

- . Blank video tapes, recorded video tapes and recorded video discs sold for or hired out for domestic consumption will, like sound recordings generally, now be taxable at 32.5%. (Schedule clauses 40 and 45).
- . Storage equipment for video tapes, audio discs and video discs will now be taxable at 32.5%. (Storage equipment for records and cassettes are taxable at 32.5%). (Schedule clause 40).
- . Blank sound tapes will now be taxable at 32.5%, the rate applicable to recorded tapes. (Schedule clauses 40 and 41).
- . Parts for coin-operated machines will, like the machines themselves, now be taxable at 32.5%. (Schedule clause 42).
- . Audio discs for use with audio disc players will now be taxable at 32.5%. (Schedule clause 39).

Taxable goods which will now become exempt

- . Electronically operated electrical fittings and accessories of a kind used exclusively or primarily and principally as part of fixed electrical installations in consumers' premises. (Other electrical fittings which serve the same purpose are exempt). (Schedule clause 21).

- . Ships and other vessels licensed to carry not less than twelve adult passengers to be used principally by the owner in carrying on a business for the purpose of providing, for the public, transport of passengers for reward on regular and scheduled sightseeing tours. (Aeroplanes and omnibuses used for similar purposes are exempt.) (Effective on and after 19 August 1981). (Clauses 2 and 5 and Schedule clause 29).
- . Videotex and teletext equipment acquired on a once-only basis for persons medically certified to be deaf, whether the equipment is incorporated in a television receiver as a composite unit or acquired separately. (A wide range of other equipment for use by the disabled is exempt.) (Clause 3 and Schedule clause 32).
- . Infants' sheets, pillow slips, sleeping bags, baby rugs, etc. (Other goods designed for use with baby equipment is exempt). (Schedule clause 33).

Goods already taxable but which will now
be taxable at lower rates

- . Cut glassware of the kind ordinarily used for household purposes (to be taxable at 7.5%, the same rate as for other household glassware). (Schedule clause 43).
- . Household articles made of plastic or comparable material used for similar purposes to household articles made of glassware (to be taxable at 7.5%, the same rate as for household glassware). (Schedule clause 43).
- . Spinning wheels and weaving looms of the kind ordinarily used for household purposes (to be taxable at 7.5%, the same rate as for household sewing machines and knitting machines). (Schedule clause 43).

- . Jardinieres and vases (to be taxable at 7.5%, the same rate as for other household receptacles). (Schedule clauses 36 and 43).
- . Abrasive grains, pastes and powders (to be taxable at 7.5%, the same rate as for other abrasive implements and apparatus). (Schedule clause 44).

Exempt goods which will now become taxable

- . Agricultural machinery, implements and apparatus that are for use other than in agricultural industry to be taxable at 20%. The rate of 7.5% will continue to apply, however, to hand tools covered by item 5, Third Schedule. (Schedule clause 2).
- . Equipment, preparations and materials for use other than in agricultural industry in the checking or eradication of insect pests and garden diseases or pests, including insecticides, herbicides and fungicides). (Schedule clause 3).
- . Machinery, implements, apparatus and refrigerating agents for use other than in the fruit-growing industry for preserving, ripening or storing of fruit (to be taxable at 20%, the rate applicable to similar equipment for use by persons not engaged in the fruit-growing industry). (Schedule clause 4).
- . Piping, tubing, channelling and guttering for use other than for irrigation, water supply, drainage or sewerage purposes (to be taxable at 20%). (Schedule clauses 8, 17 and 20).
- . Baking powder, cream of tartar and bicarbonate of soda for use other than for culinary purposes (to be taxable at 20%). (A principal effect will be to make taxable bicarbonate of soda that is for use in swimming pools) (Schedule clause 10).

- . Goods in the nature of toilet preparations including skin repair creams and lotions, anti-dandruff foams and cleansing creams (to be taxable at the rate applicable to similar preparations). (Schedule clause 12).
- . Household disinfectants put up for sale as antiseptics; sterilizing solutions put up for sale as antiseptics; combined disinfectants and sterilizing solutions put up for sale as antiseptics. (Household disinfectants and sterilizing solutions are taxable at 20%). (Schedule clause 12).
- . Cosmetics which include sunscreen agents to provide protection from solar ultra-violet rays and which are put up for sale for such suncreening purposes (to be taxable at 32.5%, the rate applicable to cosmetics). (Schedule clause 13, 37 and 38).
- . Liners and component parts for swimming pools including goods designed to form part of swimming pools (to be taxable at 20%). (Schedule clauses 17, 18 and 19).
- . Swimming pool filters of a kind installed as fixtures (to be taxable at 20%, the same rate as other swimming pool filters). (Schedule clause 22).
- . Tractors including ride-on mowers and similar equipment designed and marketed with the general appearance and features of tractors (to be taxable at 20%, subject to overriding exemption provisions applicable to particular industries such as the agricultural industry and the timber-getting industry and overriding exemptions applicable to particular organizations, including Governments). (Schedule clause 31).

- . Oils, greases and lubricants for use for business or industrial purposes (to be taxable at 20%). (There have been significant practical difficulties arising from the fact that other oils and lubricants are taxable). (Schedule clause 34).
- . Matches (to be taxable at 7.5%, instead of being subject to excise duty). (Clause 5 and Schedule clauses 35 and 47).

In addition, item 44 in the Second Schedule is being amended to clarify the situation and remove any doubts that audio disc appliances for playing such discs will be taxable at 32.5%, the same rate as for goods with which they compete. (Schedule clause 39).

Amendments of an up-dating nature are being made to the exemption for wireless transceivers for use in conjunction with radio services conducted by various organizations including the Royal Flying Doctor Service of Australia (being the name under which that service now operates) and to delete the names of services no longer in existence. (Schedule clause 17).

Item 36A in the First Schedule (New Zealand fruit juice products) is being substituted and item 68A of that Schedule (works of art by New Zealand artists) is being repealed, to give effect to the Closer Economic Relations Agreement entered into with New Zealand, with effect 28 days after the date of Assent to the Bill.

Except where otherwise indicated above, these changes are to have effect in relation to goods that, on or after 24 August 1983, pass the point at which sales tax becomes payable, ordinarily the sale from wholesaler to retailer.

Background

As background to these changes, the sales tax is a single stage tax levied on 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 being 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 taxed but imported goods that have been used overseas are normally taxable on a basis corresponding with 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 importations of goods where they are not imported for sale by a wholesaler, e.g., where they are imported by retailers or consumers.

Manufacturers and wholesalers are required to register with the Taxation Office, unless they deal only in exempt goods. When registered they are issued with a certificate of registration and by quoting the certificate number when purchasing or importing goods they can acquire the goods free of tax. The system of quoting certificates has the effect of deferring payment of 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 a self-assessment one and persons furnishing returns are required to calculate the tax payable on transactions for the month, and to forward payment of the 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.

Reflecting the fact that sales tax payers are obliged to pay tax to the Taxation Office in this way they, in turn, when selling goods to a retailer or other customer, charge to the customer an amount equal to the tax that they are liable to remit when forwarding a sales tax return for the month. In that way the tax is passed on to the consumer.

The sales tax legislation is contained in a number of separate Acts. There are nine Sales Tax Acts which specify the rates at which tax is payable and each Sales Tax Act 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. The subjects of taxation and the various Assessment Acts and Rates Acts are set out in the following table -

<u>Assessment Act and Rates Act</u>	<u>Subject 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 him as stock for sale by retail or applied to his 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 his own use by a purchaser who quoted his certificate for the goods.
Sales Tax Assessment Act (No. 5) and Sales Tax Act (No. 5)	Goods imported into Australia.
Sales Tax Assessment Act (No. 6) and Sales Tax Act (No. 6)	Goods imported into Australia and sold by the importer or applied by the importer to his own use.

<u>Assessment Act and Rates Act</u>	<u>Subject of Taxation</u>
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 his own use by a purchaser who quoted his certificate for the goods.
Sales Tax Assessment Act (No. 9) and Sales Tax Act (No. 9)	Goods in Australia dealt with by lease.

As noted earlier, a further Act, the Sales Tax (Exemptions and Classifications) Act, contains a First Schedule that lists the classes of goods that are exempt from tax and further Schedules listing those that are taxable at specified rates. Goods not listed in any of the Schedules are taxable at what is called the general rate. Exemptions from tax set out in this Act extend to otherwise taxable goods that are for use by specified organizations or in particular industries or production processes.

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

Clause 1 : Short title, etc.

This clause formally states the citation of the amending Act as the Sales Tax (Exemptions and Classifications) Amendment Act 1983 and refers to the Sales Tax (Exemptions and Classifications) Act 1935 as the Principal Act.

Clause 2 : Commencement

By sub-clause (1) of this clause it is proposed that, subject to sub-clauses (2) and (3) the amendments will come into operation on 24 August 1983. This accords with normal practice for changes in the sales tax classification of goods.

Sub-clause (2) provides that the amendments to be made by clauses 11 and 14 in the Schedule to the Bill (and which arise out of the C.E.R. Agreement with New Zealand) will come into operation on the twenty-eighth day after the date of Assent, in keeping with the provisions of sub-section 5(1A) of the Acts Interpretation Act 1901.

By sub-clause (3), the amendment to be made by Schedule clause 29 (tourist vessels) is deemed to have come into operation on 19 August 1981, which is the date on which these (and other vessels) became subject to sales tax.

Clause 3 : Goods incorporating
Videotex Equipment

Clause 3 will insert a new section 6AD in the Principal Act and will operate in conjunction with new exemption item 123A in the First Schedule to the Principal Act (Schedule clause 32). Section 6AD will mean that the value of videotex and similar equipment incorporated into television receivers will not be subject to sales tax where the receiver is for use by a person who is profoundly deaf. Ordinarily, goods which form part of other goods are taxed in accordance with the identity of those other goods so that, in the absence of section 6AD, videotex and similar equipment incorporated into television receivers and for use by the profoundly deaf would be taxable at the rate applicable to the receiver, i.e. 32.5%.

By proposed sub-section 6AD(2) an eligible person who is eligible for the exemption under item 123A will be entitled to exemption for only one item of eligible equipment at any one time. The eligible person will also only be entitled to claim exemption once in three years unless the Commissioner of Taxation is satisfied that special circumstances exist to justify the granting of a further exemption within that period. Special circumstances could exist, for example, where the eligible equipment is faulty, is stolen or is destroyed by flood or fire.

Clause 4 : Amendments of the Sales Tax Schedules

This clause proposes that the Schedules to the Principal Act be amended as set out in the Schedule to this Act. The amending Schedule is divided into three parts. Part I proposes amendments of the First Schedule, Part II will amend the Second Schedule and Part III will amend the Third Schedule.

Clause 5 : Application of amendments

Sub-clause 5(1) provides that, subject to sub-clauses (2) and (3), the amendments of the Principal Act made by this Act, other than Schedule clauses 11, 14 and 29, are to apply on or after 24 August 1983. Its purpose is to ensure that the amendments effected by the Bill will apply uniformly to registered persons.

Where goods are sold by retail by a person who is registered under the Sales Tax Assessment Acts and that person has purchased or imported the goods, he has a liability in respect of those retail sales by virtue of section 3 of Sales Tax Assessment Acts Nos. 2, 3, 6 and 7.

On and after 24 August 1983, certain exempt goods will become taxable and certain taxable goods will become taxable at higher or lower rates. In respect of those goods which will remain taxable but at higher or lower rates, and in a context where a liability arises in respect of the sales of those goods by retail by a registered person, regulation 49 of the Sales Tax Regulations provides that where sales tax has been paid on the purchase or importation of those goods, the

registered person is entitled to a refund, by way of rebate, of the whole of the tax which becomes payable on their sale by retail. The intended effect of this is that a registered person having paid tax at the time of purchase or importation of goods has no further liability in respect of his retail sales of those goods.

No such provision exists in respect of exempt goods which became taxable on and after 24 August 1983 and sub-clause 5(2) is directed to that situation. It authorises, in effect, a remission of tax that would otherwise be payable by a registered person who had purchased exempt goods and subsequently became liable to pay tax on their sale by retail.

The effect of paragraph 5(2)(f), when read with sub-paragraph 5(2)(c)(i), is to place a registered retailer, who purchases or imports such goods without the quotation of his certificate, on an equal footing with a retailer who is not entitled to be registered and consequently has no liability in respect of his retail sales of goods which become taxable but were exempt at the time he purchased them.

Paragraph 5(2)(f) does not apply in respect of a registered person who purchases or imports goods under quotation of his certificate, and places those goods in a tax-free common stock for sale by retail or wholesale as occasion arises. Such a person is in broadly the same position as a person who sells principally by wholesale and who also operates from a tax-free stock.

Registered persons operating from tax-free stocks are liable to account for tax on sales of taxable goods by retail, the tax being payable on the fair market value of the goods if sold by wholesale. Because such persons are ordinarily liable to account for tax on their retail sales it is not necessary to make any special provision for them. Goods which were exempt but which became taxable on and after 24 August 1983 will bear tax on their sale by retail. Similarly, goods which became taxable at higher rates will bear tax on their sale by retail at the higher rate.

It is also not necessary to make any special provision for manufacturers. The tax liability of a manufacturer who treats stock for sale by retail arises when the goods are placed by him into stock for retail sale. Where exempt goods are placed into retail stock by a manufacturer his tax liability arises at that point and

as the goods are exempt at the taxing point, no tax is payable. Where the goods become taxable on and after 24 August 1983 no tax liability arises at the time of their sale by retail because the goods had passed the taxing point. Effectively, the goods stand in the same position as goods held in retail stock by retailers where the goods were exempt but became taxable on and after 24 August 1983.

Sub-paragraph 5(2)(c)(iii) read in conjunction with paragraph 5(2)(f) relates to retailers who are not registered persons but if they were registered persons would not have been required to quote their certificates in respect of the purchase or importation of goods. An example would be a person who sells principally by retail but makes occasional wholesale sales. The clauses also cover the position of a retailer/wholesaler who up until 24 August 1983 dealt only in exempt goods and therefore was not required to be registered but is required to become registered on and after 24 August 1983 because the goods he deals in have become taxable. The effect of sub-paragraph 5(2)(c)(iii) and paragraph 5(2)(f) will be to place such persons in the same position as outlined above for sub-paragraph 5(2)(c)(i) and paragraph 5(2)(f).

By the proviso to sub-section 4(1) in the Sales Tax Assessment Acts Nos. 2, 3, 6 and 7, where goods are sold by retail by a person who is registered under the Sales Tax Assessment Acts, and who has quoted his certificate in respect of the purchase or importation of those goods, the sale value on which tax is payable in respect of those goods is the fair market value of those goods if sold by that person by wholesale. But for the proviso, tax would be payable on the actual retail sale price of the goods and this would be a departure from the general scheme of the law to tax on the basis of wholesale values only.

On and after 24 August 1983 certain merchants will be obliged to pay tax on their retail sales of goods which were exempt from sales tax prior to that date. Because the goods were exempt the merchants will not have quoted their certificates when purchasing or importing the goods. They will therefore not secure the benefit of the proviso to each of the abovementioned Acts which only applies where the certificate of registration was quoted in respect of the purchase or importation of the goods.

Paragraph 5(2)(g), read in conjunction with sub-paragraph 5(2)(c)(ii), provides, in effect, for a remission of tax in excess of that which would be payable on the fair market value of the goods.

Sub-clause 5(3) relates to the removal of excise on matches and its replacement on and after 24 August 1983 with sales tax at the rate of 7.5%. It is a transitional provision designed to ensure that matches on which excise duty was payable and has been paid are not also subject to sales tax on or after 24 August 1983.

Sub-clause 5(4) provides that the amendments to be made by Schedule clauses 11 and 14 only apply to transactions, acts and operations effected or done in relation to the goods involved, namely, certain fruit juice products the produce or manufacture of Australia or New Zealand and certain works of art by New Zealand artists, on or after the twenty-eighth day after the date of Royal Assent.

Sub-clause 5(5) provides that the amendment to be made by Schedule clause 29 applies to transactions, acts and operations effected or done in relation to the goods involved, namely, certain tourist ships and vessels, on or after 19 August 1981.

Sub-clause 5(6) will mean that sales tax is not payable and is deemed never to have been payable upon the sale value of certain tourist and other vessels used exclusively or principally in the carrying on of a business of providing for the public, transport of passengers for reward on regular and scheduled sight-seeing tours between the period 19 August 1981 and the date of Royal Assent, inclusive. The clause will enable refunds, subject to the general requirements of the law in relation to refunds being met, to be made to persons who have paid tax on those vessels in the period specified. The clause will operate in conjunction with sub-clause 2(3) and Schedule clause 29 which will insert a new sub-item 119(1A) in the First Schedule to the Principal Act to exempt those vessels.

Sub-clause 5(7) will deem any overpayment of tax in respect of vessels covered by sub-item 119(1A), First Schedule, to have been made on the date of Royal Assent, to ensure adequate time for refund claims to be lodged in accordance with section 12C of the Sales Tax Procedure Act.

Amendments of First Schedule

Schedule clause 1 : Definitions

Clause 1 of the Schedule will effect an amendment to the definition of "aids to manufacture" contained in the First Schedule to the Principal Act, to exclude all lubricants from exemption. Paragraph (l) presently limits the exclusion for lubricants to those for goods expressly excluded from the definition of "aids to manufacture". New paragraph (n) will provide for the exclusion of all lubricants from exemption under the "aids to manufacture" definition. Paragraph (m) will replace existing paragraph (l) which will now only provide for the exclusion of parts.

Schedule clause 1 will also introduce into the sales tax law a definition of the term "lubricants" to define those oils, greases and other preparations which will become taxable.

Schedule clause 2 : Item 1

Item 1 in the First Schedule exempts certain specified agricultural machinery, implements and apparatus and many specified goods are exempt irrespective of whether or not they are for use in agricultural industry, e.g. cultivators, hoes, scarifiers, sickles, scythes and secateurs. In other instances, item 1 exempts specified agricultural machinery, implements and apparatus only when they are for use in agricultural industry, e.g. bag loaders and bag rammers, fencing tools and sack sewing machines.

Schedule clause 2 will amend item 1 to restrict the exemptions presently available for agricultural machinery, implements and apparatus (and parts therefor) to those which are for use in agricultural industry. Persons engaged in agricultural industry will continue to be able to purchase agricultural machinery, implements and apparatus free of sales tax by furnishing to their suppliers appropriately worded exemption certificates. This is in accordance with the ordinary practice that is presently followed where farmers are entitled to exemption from sales tax on certain goods on the basis that the goods purchased are for use in agricultural industry.

Machinery, implements and apparatus not for use in the agricultural industry will generally become taxable at the rate of 20%. However, hand tools of the kinds used for industrial purposes, including power-driven tools, are taxable at 7.5% under item 5, Third Schedule, as are hand-tools of the kinds used for gardening, other than power-driven tools.

Schedule clause 3 : Item 3

Item 3 exempts equipment, preparations and materials for the checking or eradication of diseases or pests. Its broad intention is to exempt spraying equipment and materials used in agricultural industry in controlling insect pests and other diseases. As presently expressed, certain insecticides used in and around the home to control insect pests qualify for exemption under item 3. Agricultural spraying and dusting materials, for example, may be used domestically and even where they are used domestically they are exempt. Other competitive domestic insecticides are taxable at 20%.

Schedule clause 3 will amend item 3 to restrict exemption to the relevant equipment, preparations and materials only when for use in agricultural industry. This will result in insecticides, fungicides, herbicides, etc. used for domestic purposes becoming taxable at 20%. Again, persons engaged in agricultural industry will continue to be able to purchase equipment, preparations and materials for the checking or eradication of diseases or pests free of sales tax by furnishing to their suppliers appropriate exemption certificates.

Schedule clause 4 : Item 10

Item 10 exempts equipment and materials for the handling or treatment of fruit as specified in its sub-items. Machinery, implements, apparatus and refrigerating agents, for the regulation of atmospheric conditions for the purpose of preserving, ripening or storing of fruit are exempted by sub-item 10(4). The sub-item, as presently expressed, has the unintended effect of extending exemption to refrigeration equipment and materials for preserving and storing of fruit by retail merchants. There is no similar exemption for goods for the preservation of vegetables nor does any such exemption apply to retail merchants of other primary products. Schedule clause 4 will amend sub-item 10(4) to restrict exemption to machinery, implements, apparatus and refrigerating agents only when for use in the fruit-growing industry.

Schedule clause 5 : Item 10B

Clause 5 will introduce a new item and is consequential on the amendment effected by Schedule clause 2. Tractors and parts therefor for use in the timber-getting industry in the hauling of log timber are presently exempt under item 1(48), First Schedule. The amendments to be made to item 1 will necessitate the relocation of the exemption for tractors and parts therefor for use in the timber-getting industry in the hauling of log timber.

Clause 5 will achieve this by inserting a new item 10B in the First Schedule.

Schedule clause 6 : Item 14

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 7 : Item 14A

This is a further consequential amendment to give effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 8 : Item 18

Piping and tubing made principally of a wide range of materials are exempted by item 18 as are channelling and guttering. The item appears in Division III of the First Schedule in the Principal Act which covers irrigation, water supply, drainage and sewerage equipment and was intended to exempt piping and tubing for use for irrigation, water supply, drainage or sewerage purposes. However, the item as presently expressed does not limit exemption to such equipment. Schedule clause 8 will amend sub-item (1) of item 18 to restrict exemption to equipment for use for irrigation, water supply, drainage or sewerage purposes.

A new sub-item (1A) is being inserted to provide exemption for channelling and guttering for use for irrigation, water supply, drainage or sewerage purposes. This channelling and guttering was previously covered by sub-item (1). The sub-item specifically excludes channelling used for water slides because channelling of this kind is not ordinarily used for water supply purposes. Consequential amendments are being made to items 82 and 86 - see Schedule clauses 17 and 20.

Sub-item 18(2) exempts fittings for piping and tubing covered by sub-item (1). Clause 8 will amend sub-item (2) by inserting a reference to new sub-item (1A) so that fittings for channelling and guttering of the kind covered by sub-item (1A) will continue to be exempt.

Clause 8 will also effect a consequential amendment to sub-item 18(3) to ensure continuity of exemption for materials for use as integral parts in the construction or repair in situ of goods covered by sub-items (1) and (1A).

Schedule clause 9 : Item 20B

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 10 : Item 32

Sub-item (2) of item 32 exempts baking powder, cream of tartar and bi-carbonate of soda, and also exempts other aerating agents for culinary purposes. The exemption applies to baking powder, cream of tartar and bi-carbonate of soda without any requirement that they be for culinary purposes. As a result, some swimming pool chemicals which consist of bi-carbonate of soda have gained exemption under this item although the intention was to only exempt the specified products when used for culinary purposes. Clause 10 will amend sub-item 32(2) to restrict exemption to baking powder, cream of tartar and bi-carbonate of soda only when for use for culinary purposes.

Schedule clause 11 : Item 36A

Clause 11 will substitute a new item 36A to give full effect to the Closer Economic Relations agreement between Australia and New Zealand. That agreement replaces the former New Zealand-Australia Free Trade Agreement.

The new item will provide a wider exemption than previously. The former item was limited to fruit juice products to which the NAFTA applied and did not provide exemption for fruit juice products produced in Australia from New Zealand juices or juice concentrates. The new item will exempt all fruit juice products made from New Zealand fruit juices or fruit juice concentrates whether

made in Australia or New Zealand where those products are of a kind that would be exempt if made from Australian fruit juices or fruit juice concentrates.

Schedule clause 12 : Item 38

Clause 12 will effect two amendments to item 38. Broadly stated, item 38 exempts drugs and medicines but there are specific exclusions for goods such as toilet preparations, dyes, acids, petroleum jelly and medicated confectionery. Paragraph (ii) of item 38 excludes from exemption toilet preparations (including soaps, toothpastes, cosmetics, pomades, perfumes and hair lotions). However, certain goods in the nature of toilet preparations which this paragraph was intended to exclude from exemption have qualified for exemption under item 38, e.g., skin repair creams and lotions, anti-dandruff foams and cleansing creams.

Paragraph (a) of Schedule clause 12 will omit paragraph (ii) of item 38 and substitute a new sub-paragraph (ii) in item 38 not only to exclude from exemption certain specified toilet preparations but also to exclude from exemption goods in the nature of toilet preparations including skin repair creams and lotions, anti-dandruff foams and shampoos and cleansing creams. Goods such as shampoo and hand cream will be taxed at 32.5% being the rate applicable to competitive products under items 19, 20, 21 and 23, Second Schedule.

Paragraph (b) of Schedule clause 12 will effect a drafting amendment.

Paragraph (c) of Schedule clause 12 will insert a new paragraph (v) in item 38 to exclude from exemption household disinfectants and sterilizing solutions put up for sale as antiseptics. Other competitive disinfectants and sterilizing solutions used for household purposes are taxable at 20% and the amendment will, for sales tax purposes, bring all these competing products into line.

Schedule clause 13 : Item 38A

Item 38A exempts preparations put up and sold for use as substances to be applied to the skin for the purpose of screening out solar ultra-violet rays in respect of which the Director-General of Health has certified that an acceptable level of protection from those rays is provided.

Some products which are essentially cosmetics have gained exemption under this item by having included a sunscreen agent in their ingredients to provide an acceptable level of protection from ultra-violet rays, and by being put up for sale for the purpose of screening out ultra-violet rays.

As the intention of the item was only to exempt goods sold as sunscreen preparations and not to exempt cosmetics, clause 13 will amend item 38A to exclude cosmetic preparations and goods in the nature of cosmetic preparations.

A consequential amendment is being made to items 20 and 25 in the Second Schedule - see Schedule clauses 37 and 38.

Schedule clause 14 : Item 68A

Clause 14 will omit item 68A which relates to works of art by New Zealand artists, being works of art to which the New Zealand-Australia Free Trade Agreement applies. That agreement has now been replaced by the Closer Economic Relations agreement and item 68A is no longer operative. Works of art produced by New Zealand artists will continue to be exempt under items 68(3) and 111, First Schedule and this accords with the requirements of the C.E.R. Agreement.

Schedule clause 15 : Item 78B

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 16 : Item 81

Clause 16 will omit paragraphs (a), (b) and (c) of sub-item 81(2) and substitute an amended paragraph (a) and will also amend paragraph (d) to up-date the terms of the item. Sub-item 81(2) as presently expressed exempts wireless transceivers for use in conjunction with radio services conducted by certain organizations including the Flying Doctor Service of Australia. That service now operates under the name of Royal Flying Doctor Service of Australia. Schedule clause 16 will amend sub-item 81(2) to delete the names of those organizations no longer in existence and amend the name of the Flying Doctor Service of Australia to the Royal Flying Doctor Service of Australia.

Schedule clause 17 : Item 82

Sub-item (1) of item 82 exempts bricks, blocks, shapes, tiles, sections, slabs, and other structural or architectural building units made of any materials. As a consequence of the amendment to item 18 (Schedule clause 8) to restrict exemption to piping, tubing, channelling and guttering for use for irrigation, water supply, drainage or sewerage purposes, Schedule clause 17 will amend sub-item 82(1) to exclude from exemption channelling used for slides or water slides which would otherwise obtain exemption as other structural or architectural building units.

Clause 17 also effects two minor drafting changes. The first is the placing of concrete fencing posts in a separate sub-item 82(1A). The second is to amend sub-item 82(3) so that it also applies to sub-item 82(1A).

Schedule clause 18 : Item 83

Sub-items (2) and (3) of item 83 exempt boards, sheets and linings of a kind used exclusively or principally in the construction or repair of, and wrought into or attached to so as to form part of buildings or other fixtures, and boards, sheets and linings used for such purposes. Swimming pools of the above-ground type in excess of 2000 gallons and swimming pools of the in-ground type have been regarded by the Commissioner of Taxation as being fixtures so that liners and components of these swimming pools are exempt.

Schedule clause 18 will specifically exclude liners and components of swimming pools and goods designed to form part of swimming pools from exemption under sub-items 83(2) and 83(3). They will now be taxable at 20%. Liners for above-ground pools of less than 2,000 gallons are already taxable at 20%.

Schedule clause 19 : Item 84

Clause 19 proposes a similar amendment to sub-item (1) of item 84 as that proposed to sub-items 83(2) and 83(3) by Schedule clause 18. Sub-item 84(1) exempts metal building materials for use in the construction or repair of, and to be wrought into, or attached to, so as to form part of, buildings or other fixtures. Schedule clause 19 will amend sub-item 84(1) to exclude from exemption liners and components of swimming pools and goods designed to form part of swimming pools.

Schedule clause 20 : Item 86

Clause 20 proposes a similar amendment to sub-item 86(1) as that proposed to sub-item 84(1) by clause 19 and that proposed to sub-items 83(2) and 83(3) by clause 18. Sub-item 86(1) exempts metal materials and Schedule clause 20 will substitute a new sub-item to exclude from exemption liners and components of swimming pools and goods designed to form part of swimming pools, and also to exclude channelling used for slides or water slides.

Schedule clause 21 : Item 90C

Item 90C exempts electrical fittings and accessories of a kind used exclusively or primarily and principally as part of fixed electrical installations in consumers' premises. Electronic equipment is specifically excluded from exemption by paragraph (a) of sub-item 90C(1).

The technological development of the use of electronic components in electrical fittings to be incorporated into fixed electrical installations in consumers' premises has created an anomaly whereby electrical fittings are exempt under sub-item 90C(1) while fittings performing the same function but operated by electronic equipment are excluded from exemption. Schedule clause 21 will amend sub-item 90C(1) to exempt electronically operated electrical fittings and accessories that are of a kind used exclusively or primarily and principally as part of fixed electrical installations in consumers' premises.

The amendment will ensure that electronic equipment which is not in the nature of electrical fittings and accessories will remain taxable.

Schedule clause 22 : Item 90F

Sub-item (2) of item 90F exempts appliances or equipment for softening, filtering, desalting or sterilizing water, being goods of a kind installed as fixtures.

Swimming pool filters of a kind installed as fixtures qualify for exemption under sub-item 90F(2). The intention of the item was to exempt appliances and equipment for water supply, not to exempt pool filters. There is also an anomaly in that swimming pool filters which are not fixtures are taxable at 20%.

The exclusion of swimming pool filters from exemption is consistent with the amendments in clauses 17, 18 and 19 to exclude from exemption liners and component parts for swimming pools and goods designed to form part of swimming pools. Schedule clause 22 will amend sub-item 90F(2) to exclude from exemption filtering appliances or equipment of the kind installed in or in connexion with swimming pools.

There is a consequential amendment to sub-item 90F(3) to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 23 : Item 107A

This is a consequential amendment to give full effect to the proposal in schedule clause 34 to tax lubricants at 20%.

Schedule clause 24 : Item 112

This also is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 25 : Item 113B

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20% and to ensure that where lubricants are manufactured by any person and applied to his own use they do not qualify for exemption as "aids to manufacture" or as "auxiliaries to aids to manufacture"

Schedule clause 26 : Item 113C

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20% and to ensure that where a registered person applies them to his own use as "aids to manufacture" they do not qualify for exemption.

Schedule clause 27 : Item 113D

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 28 : Item 113E

This is a further consequential amendment to give effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 29 : Item 119

Clause 29 will insert a new sub-item (1A) of item 119 to exempt ships and other vessels licensed to carry not less than twelve adult passengers, to be used by the owner or owners exclusively or principally in the course of carrying on of a business and to be used exclusively or principally for the purpose of providing, for the public, transport of paying passengers on regular and scheduled sight-seeing tours.

Sub-item 119(1) exempts ships and other vessels, other than those to be used exclusively or principally for purposes of pleasure, sport or recreation either by the owner or by any other person, whether or not that use is to be in accordance with a charter or other hiring agreement or otherwise for reward. Vessels used as ferries for scheduled public passenger and freight transport services are exempt under this sub-item. Exemption in the passenger field is limited, however, to vessels for use in providing scheduled public transport services over pre-determined routes.

New sub-item (1A) of item 119 will extend the exemption provided by sub-item 119(1) to also exempt vessels licensed to carry at least twelve adult passengers, where the vessels are to be used by their owner principally in the carrying on of a business and the vessels are to be used principally for the purpose of providing, for the public, transport of passengers for reward on regular, scheduled sight-seeing tours. This will bring the exemption into line with other means of public transport such as trains, commercial aeroplanes and buses which are exempt.

The types of tourist vessels intended to be exempted are those vessels which are licensed to carry at least 12 adult passengers. The vessels are used by their owner principally in the course of carrying on of a business and the vessels are to be used principally for the purpose of transporting paying passengers on regular and scheduled sight-seeing tours.

While transport will be an essential factor for exemption to apply, tourist vessels which transport passengers on extended tours and which provide overnight accommodation will not be debarred from exemption if the essential purpose of the trip is to transport paying passengers on a scheduled sight-seeing tour.

The exemption will also apply to vessels leased from an owner for such purposes or held under a hire-purchase agreement from a finance company or other financier. This is to be achieved by an interpretation provision which, in effect, defines the term "relevant owner" for the purposes of item 119 to include a person taking or agreeing to take a vessel either on lease under a lease agreement for a period of not less than 4 years or on hire under a hire-purchase agreement.

Exemption is not intended to extend to vessels used to take tourists on unscheduled scuba diving expeditions, game fishing outings or other general recreational trips. Exemption is also not to extend to vessels chartered or otherwise hired out whether for purposes of pleasure, sport or recreation or for other purposes such as business promotions, functions, conferences where the transport of paying passengers is not involved and no regular, scheduled tour occurs.

The exemption is to be backdated to 19 August 1981 (Clauses 2 and 5).

Consequential amendments are to be made to sub-items 119(2) and 119(3). A further consequential amendment is to be made to sub-item 119(4) to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 30 : Item 119A

This is a consequential amendment to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Schedule clause 31 : Item 119E

In order to overcome problems that have arisen in recent years with the exemption of tractors, including those brought about by changes to the Sales Tax (Exemptions and Classifications) Act in January 1983, the exemption of tractors is to be varied to allow exemption to continue only where an overriding exemption, such as that for the agricultural industry, applies. Clause 31 will achieve this by omitting item 119E which presently exempts tractors which are not elsewhere included in any item in any of the Schedules to the Principal Act.

As indicated, exemption will continue to apply to tractors for use in agricultural industry and in other situations where overriding exemptions apply such as the timber-getting industry, mining industry and aids to manufacture provisions. Some tractors will qualify for the 7.5% rate of tax where they are for use in the building and construction industries, including construction of roads, dams and other works and are covered by item 7 in the Third Schedule to the Principal Act. In all other cases tractors that lose sales tax exemption will become taxable at 20%.

An instance where the 20% rate will apply is ride-on mowers for lawn and grass mowing. Although designed for use principally as mowers these goods have the general appearance and features of a small conventional tractor. They have, against the background of item 119E, been marketed for use as general purpose tractors. Other ride-on mowers are taxable at 20%. The removal of item 119E will have the effect of taxing "tractor-type" ride-on mowers at 20% and bring their classification into line with other lawn and grass mowers.

Schedule clause 32 : Item 123A

Clause 32 will provide a new exemption for interactive and broadcast videotex systems, broadcast teletext decoding devices and similar decoding devices of a kind used in or in connexion with television receivers where the system or device is for use and not for sale by profoundly deaf persons. The exemption will also extend to decoding devices for use in appropriate circumstances with telephones.

Videotex, teletext and other comparable equipment enable the spoken word (captions) and information to be reproduced in visual form on screens of television receivers or monitors designed for use either for television receivers or telephone services, without the need for sound.

The exemption will be available only to persons who are profoundly deaf and it will be necessary for such persons to obtain a certificate from the Director-General of Health (or officer appointed by him) as to the extent of their hearing disability.

Exemption will also be restricted to the purchase of one device in a three year period, unless the Commissioner of Taxation considers special circumstances exist.

This amendment is part of the measures necessary to provide exemption for videotex and similar equipment for use by the profoundly deaf which is also being effected by clause 3 of the Bill, explained above.

Schedule clause 33 : Item 124

Clause 33 will omit paragraphs (c) to (h) of sub-item 124(5) and substitute new paragraphs (c) to (n).

Sub-item 124(5) exempts goods such as seats, stands, mattresses, pillows, cushions, covers, blankets and quilts which are designed for use with perambulators, cots, bassinets and other baby carrying equipment.

Schedule clause 33 will expand the range of exempt goods to include other goods designed for use with such equipment, such as infants' sheets, pillow slips, bunny rugs and sleeping bags. While these goods are taxable at 7.5%, blankets, covers and quilts relevantly designed are exempt.

Schedule clause 34 : Item 127

Clause 34 will omit item 127 which exempts oils, greases and other lubricants for use for business or industrial purposes but not including oils, greases and other lubricants of road vehicles used for private or business purposes.

Considerable difficulty has been encountered by vendors and purchasers in administering this exemption, particularly where the same oil is for use in taxable and exempt circumstances. Schedule clause 34 will overcome these problems by omitting the exemption and making all oils, greases and lubricants taxable at 20%. Oils, greases and lubricants for use as lubricants of road vehicles are already taxable at 20% as are oils, greases and lubricants used for private or domestic purposes.

To give effect to this change in the law a number of other items require a minor consequential amendment. These are contained in Schedule clauses 6, 7, 9, 15, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 46.

Schedule clause 35 : Item 140

Clause 35 will omit item 140 which presently exempts matches, namely, safety matches, book matches and wax matches (but not including fusees, Bengal lights or Bengal matches).

A new item will be introduced into the Third Schedule which will be expressed in identical terms to item 140 to tax matches at 7.5% - refer Schedule clause 47.

Part II - Amendments of Second Schedule

The amendments under this head are to the Schedule to the Principal Act which sets out the categories of goods that are subject to sales tax at the top rate of 32.5%.

Schedule clause 36 : Item 10

Clause 36 will omit item 10 which covers jardinieres and vases.

A new sub-item will be introduced in item 1 of the Third Schedule, which will be expressed in identical terms to item 10, to tax jardinieres and vases at 7.5%, the same rate as other goods of a kind ordinarily used for household purposes - refer Schedule clause 43, paragraph (b).

Schedule clause 37 : Item 20

This is a consequential amendment to Schedule clause 13 which will exclude cosmetics and preparations in the nature of cosmetics from the scope of item 38A, First Schedule. Item 20 contains a reference to goods covered by item 38A, First Schedule, and to give full effect to the amendment made by clause 13, Schedule clause 37 will omit from item 20 the reference to goods covered by item 38A.

Schedule clause 38 : Item 25

This is a consequential amendment to Schedule clause 13 similar to that explained above for Schedule clause 37. Clause 38 will omit from item 25 the reference to goods covered by item 38A, First Schedule.

Schedule clause 39 : Item 44

Item 44 covers certain appliances including those of a kind used primarily or principally for the purpose of reproducing sound from records, tapes or wires.

Audio disc players reproduce sound by scanning a disc with a laser beam. They provide an alternative to conventional record players which are taxable at 32.5%.

The view has been taken by the Commissioner of Taxation that audio disc players come within the terms of item 44. However, to clarify the situation and to remove any doubts, Schedule clause 39 will amend item 44 to specifically include audio disc players.

Audio discs for use with audio disc players are also to be taxed at 32.5% - refer Schedule clause 40.

Schedule clause 40 : Item 46

Clause 40 will omit sub-items 46(1) and 46(3) and substitute new sub-items and amend sub-item 46(2).

Paragraph (a) of clause 40 will have the effect of taxing audio discs in like manner to records. It will also keep the tax rate for audio discs in line with that for audio disc players - refer Schedule clause 39. The new sub-item will exclude sound recordings produced for use in conjunction with films which are specifically covered by sub-item 6(5) in the Third Schedule to the Principal Act and taxable at 7.5%.

Paragraph (b) will effect a minor amendment to sub-item 46(2) to ensure that sound recordings of the kind covered by sub-item 6(5), Third Schedule, as explained above, remain taxable at 7.5%.

Paragraph (c) will omit sub-item 46(3) and substitute new sub-items 46(2A), 46(2B) and 46(3).

Sub-item 46(2A) will have the effect of taxing all blank tapes and blank wires of the kind used with tape recorders, wirerecorders and other equipment used for the playing of sound tapes and wires at the rate of 32.5%, the same rate applicable to recorded tapes.

Sub-item 46(2B) will result in blank and pre-recorded video tapes and video discs of the kind used with video players and recorders becoming taxable at 32.5%. The new sub-item will preserve the rate of tax applicable to pre-recorded video tapes of the kind covered by sub-item 6(1), Third Schedule by specifically excluding such goods. Also excluded from sub-item 46(2B) will be pre-recorded video tapes and discs of an advertising nature and pre-recorded video tapes and discs produced for a person for his private, domestic or

personal use. Advertising and personal videotapes will remain taxable at 20%.

Sub-item 46(3) will tax at 32.5% protective envelopes, stands, cabinets and other storage equipment for records, sound tapes, video tapes and video discs. It is of similar effect to the present sub-item 46(3) but expanded to cover storage equipment for video tapes, video discs and audio discs. Previously the sub-item covered only storage equipment for records and sound tapes.

To give full effect to these proposals consequential amendments to item 50 in the Second Schedule and item 6 in the Third Schedule will be effected by Schedule clauses 41 and 45 respectively.

Schedule clause 41 : Item 50

Clause 41 will amend item 50 by deleting the reference to "recording tapes or recording wires" from the excluding words of that item. This amendment is consequential on the proposal to tax such tapes and wires (whether blank or pre-recorded) at 32.5% - see Schedule clause 40.

Schedule clause 42 : Item 60

Clause 42 will amend item 60 to tax at 32.5% parts for coin-operated machines.

Item 60 covers slot machines, coin machines and token machines, but not including weighing machines or machines for the sale of goods. There is no provision, however, for parts for goods covered by item 60, in the Second Schedule, and for that technical reason they are presently taxable at 20%. It is usual for the sales tax law to provide for the taxing of parts and the principal goods at the same rate. The differing treatment of the parts to the completely assembled goods has given rise to a situation whereby tax may be avoided and the amendment will close off this avenue.

Part III : Amendments of Third Schedule

The Third Schedule to the Principal Act identifies the categories of goods that are taxable at the rate of 7.5%.

Schedule clause 43 : Item 1

Paragraph (a) of clause 43 will amend item 1 by deleting the reference to cut-glassware.

Household glassware that is moulded or has designs etched or ground on it is taxable at 7.5% but cut-glassware is excluded from the lower rate and is presently taxable at 20%. Paragraph (a) of Schedule clause 43 will amend item 1 to bring cut-glassware into line with other household glassware covered by paragraph (c) of item 1.

Paragraph (b) of Schedule clause 43 will give effect to the proposal (see also Schedule clause 36) to tax at 7.5%, jardinieres and vases, by adding a new paragraph (ba) in item 1.

Paragraph (c) of Schedule clause 43 will amend paragraph (c) of item 1 to tax at 7.5% household articles of a material other than glassware used for purposes similar to the purposes for which glassware is used.

Household goods including glassware and crockery and articles used for similar purposes to crockery are taxable at 7.5% while articles made of plastic or comparable material, often used in substitution for household glassware, are taxable at 20%. Paragraph (c) of Schedule clause 43 will amend paragraph (c) of item 1 to bring household articles made of plastic or comparable material, into line with household glassware.

Paragraph (d) of Schedule clause 43 will amend paragraph (o) of item 1 to tax at 7.5% household spinning wheels and weaving looms.

Household sewing machines and knitting machines are taxable at 7.5%. Spinning wheels and weaving looms of the kind used in household weaving, which are used for comparable household purposes to household sewing machines and knitting machines, are presently taxable at 20%. Paragraph (d) of Schedule clause 43 will bring these goods into line by taxing them at 7.5%.

Schedule clause 44 : Item 5

Clause 44 will amend sub-item (3) of item 5 to tax at 7.5% abrasive grains, pastes and powders.

Sub-item 5(3) covers abrasive implements and apparatus of the kinds used for industrial purposes, including revolving grind stones, grinding wheels and other grinders. Abrasive cloths and papers are also covered while abrasive grains, pastes and powders, which are comparable goods, are presently taxable at 20%. Schedule clause 44 will amend sub-item 5(3) to bring abrasive grains, pastes and powders into line with abrasive cloths and papers.

Schedule clause 45 : Item 6

Clause 45 will amend sub-item (1) of item 6 by adding a new paragraph (c) to exclude from the Third Schedule video tapes, discs or cassettes of films produced for private or domestic use by any person. This is a consequential amendment to the proposal at Schedule clause 40 to tax video tapes, discs and cassettes at 32.5%.

Schedule clause 46 : Item 7

Clause 46 proposes to make consequential amendments to item 7 to give full effect to the proposal in Schedule clause 34 to tax lubricants at 20%.

Paragraph (a) of clause 46 will omit the reference to lubricants from sub-item 7(1).

Paragraph (b) of clause 46 will add the words "or lubricants" to the excluding words of sub-item 7(1) which will have the effect of excluding lubricants from its scope.

Paragraphs (c) and (d) will have the effect of excluding lubricants from sub-item 7(2) while paragraph (e) will remove the reference to lubricants in sub-item 7(3) and restrict the application of that sub-item to parts for machinery, implements or apparatus covered by sub-items 7(1) and 7(2).

Schedule clause 47 : Item 10

Clause 47 will omit item 10 which covers containers for goods covered by the Third Schedule and will insert a new item 10 to give effect to the proposal at Schedule clause 35 to tax matches at 7.5%.

This amendment is part of the measures necessary to abolish the present excise of 7.5 cents per thousand matches, and to replace that excise with a sales tax at a broadly corresponding rate. By sub-clause 5(3) of the Bill sales tax will not, as a transitional measure, be levied on matches that have borne the excise duty that is being abolished.

Proposed item 11 is to replace existing item 10 which is in the same terms as the omitted item 10.

