

1979

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)

AMENDMENT BILL (NO.3) 1979

EXPLANATORY MEMORANDUM

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

Introductory Note

This memorandum explains the provisions of the Sales Tax (Exemptions and Classifications) Amendment Bill (No.3) 1979 which is designed to amend the Sales Tax (Exemptions and Classifications) Act 1935.

The Bill introduces new exemption items into the First Schedule to the Sales Tax (Exemptions and Classifications) Act which, broadly, will provide exemption for the following categories of goods -

- . goods designed and manufactured expressly for use by persons suffering from sickness, disease or disablement
- . wigs and hair-pieces for people who are clinically bald
- . battery chargers for use exclusively or principally in recharging the batteries of wheelchairs
- . hand controls and other motor vehicle modifications which enable disabled persons to drive vehicles
- . all medical and surgical appliances (not already exempt) of a kind used exclusively or principally in alleviating or treating sickness or disease
- . imported antiques
- . rolls for player-pianos

- . equipment for the conversion of internal combustion engines to natural gas or liquefied petroleum gas operation
- . portable non-oil burning domestic space heating appliances
- . certain solar energy appliances.

Other provisions in the Bill will raise the exemption levels applicable to craftsmen and other small manufacturers. They will not be liable for sales tax if their average annual turnover does not exceed \$12,000 or, if this figure is exceeded, their annual tax liability would not exceed \$250.

Notes on each clause of the Bill are set out in the following paragraphs.

Clause 1 : Short Title Etc.

This clause formally provides for the short title and citation of the amending Act and for the Sales Tax (Exemptions and Classifications) Act 1935 to be referred to as the Principal Act.

Clause 2 : Commencement

This clause provides for the commencement of the various provisions in the amending Act.

By sub-clause (1), the amending Act, except to the extent that sub-clauses (2) and (3) apply, shall come into operation on the day on which it receives the Royal Assent. Under this sub-clause paragraphs 3(g), (h), (j), (k), (l), (m) and (n) will come into operation on the date of Royal Assent. These paragraphs alter the exemption levels relating to small manufacturers in items 100 and 103 in the First Schedule to the Principal Act.

Sub-clause (2) provides that paragraph 3(q) and section 4 shall be deemed to have come into operation on 28 June 1979. These are provisions in the amending Bill which will exempt LPG conversions kits, non-oil space heating appliances and solar appliances.

Sub-clause (3) provides that paragraphs 3(a), (b), (c), (d), (e), (f), (o) and (p) shall be deemed to have come into operation on 22 August 1979. These paragraphs relate to goods for use by the sick and disabled and to imported antiques and rolls for player-pianos.

Clause 3 : First Schedule

Clause 3 will amend the First Schedule to the Principal Act. The First Schedule comprises items specifying the classes of goods that are exempt from tax.

Paragraph (a) will amend the heading of Division VII of the First Schedule to the Principal Act so as to include a reference to medical goods. The heading at present refers to surgical goods but not medical goods. This amendment is consequential on the amendment proposed by paragraph (d) of clause 3 which will insert in Division VII a new item relating to medical goods.

Paragraph (b) of clause 3 will omit sub-item (4) of item 42 in the First Schedule to the Principal Act. That sub-item exempts -

"Articles designed for the alleviation of deafness, but not including articles for public use in buildings or other places."

Goods covered by sub-item 42(4) will be covered by new item 123 to be substituted by paragraph (o) of clause 3 for the present item 123 in the First Schedule to the Principal Act.

Paragraph (c) will add a new sub-item (17) to item 42 in the First Schedule to the Principal Act. Item 42 exempts specified medical and surgical aids (and parts therefor), namely:-

- (1) Abdominal belts
- (2) Absorbent cotton wool, gauzes and lint
- (3) Adhesive plaster and strapping
- (4) Articles designed for the alleviation of deafness, but not including articles for public use in buildings or other places
- (5) Artificial eyes
- (6) Artificial limbs
- (7) Bandages and bandage winders

- (7A) Bath seats of a kind used by invalids or aged persons
- (7B) Colostomy, ileostomy and supra-pubic appliances; urinals made principally of rubber or other pliable material
- (8) Crutches
- (9) Elastic bandages, knee caps and stockings
- (10) Invalid chairs, invalid carrying chairs, invalid wheeled lounges and lounge chairs, invalid tricycles including motor propelled invalid wheel chairs and invalid tricycles; spinal carriages and other invalid hand carriages; wheeled beds of the kind used by invalids
- (11) Spectacles and eye-glasses (and cases and wipers therefor), but not including goggles, sun glasses, field glasses or similar optical goods
- (12) Surgical boots, braces and irons
- (13) Surgical, medical and first-aid outfits
- (14) Trusses
- (15) Umbilical belts
- (16) Uterine supports, including surgical pessaries.

Sub-item (17) will exempt wigs and hair-pieces for use by a person in respect of whom a legally qualified medical practitioner has certified that the use of a wig or hair-piece is necessitated by the loss of hair through sickness or disease (other than naturally occurring baldness) or the effects of the treatment of sickness or disease.

Paragraph (d) will introduce three new exemption provisions (items 42A, 42B and 42C) into the First Schedule to the Principal Act.

Item 42A will exempt battery-chargers for use exclusively or principally in recharging the batteries of goods covered by sub-item (10) of item 42, i.e. invalid chairs etc. - the terms of sub-item (10) are quoted under paragraph (c) above.

Item 42B will provide exemption for a range of medical and surgical appliances for use by persons suffering from sickness, disease or physical impairment.

Sub-item (1) of item 42B will exempt medical and surgical appliances of a kind used exclusively or principally by persons suffering from sickness, disease or physical impairment for the purpose of alleviating or treating that sickness, disease or impairment or the effects of that sickness, disease or impairment.

Sub-item (2) of item 42B will exempt parts for goods covered by sub-item (1) of item 42B.

Item 42C will provide exemption for goods to be used in the modification of a motor vehicle solely for the purpose of adapting it for driving by a person who is suffering from a physical impairment.

By paragraph (e) of clause 3 the heading to Division X of the First Schedule to the Principal Act will be amended to include a reference to antiques. This amendment is consequential on the amendment proposed by paragraph (f) of clause 3 which will insert in Division X a new item relating to antiques.

Paragraph (f) of clause 3 will insert in the First Schedule to the Principal Act a new item 70A that will exempt imported antiques that are, or were, at the time of their entry for home consumption under the Customs Act, covered by item 99.06 in Schedule 1 to the Customs Tariff. That Tariff item applies to imported antiques that are, in the opinion of the Minister for Business and Consumer Affairs, of an age exceeding 100 years.

Broadly, paragraphs (g), (h), (j) and (k) will amend item 100 in the First Schedule to the Principal Act so as to increase the turnover level for exemption from sales tax to a single figure of \$12,000 per annum in respect of all classes of manufacturers. Item 100 now exempts -

- (1) Goods manufactured and sold by retail by a person (not being a manufacturer of the class specified in sub-item (2)) if the Commissioner is of the opinion that the average annual value of that person's sales of all goods is not, or would not be, in excess of Fourteen hundred dollars

- (2) Goods manufactured by a person exclusively in his own home if the Commissioner is of the opinion that the average annual value of that person's sales of all goods is not, or would not be, in excess of One thousand dollars.

Item 100 as amended by paragraphs (g), (h), (j) and (k) will exempt -

Goods manufactured by a person if the Commissioner is of the opinion that the average annual value of that person's sales of all goods is not, or would not be, in excess of \$12,000.

The exemption will apply not only when the goods are sold by the manufacturer but also to sales of the goods by retailers or other persons who may acquire the goods for resale.

Paragraph (1) will add a further definitional provision to item 100 in the First Schedule to the Principal Act. In the item the "average annual value of sales of all goods" is defined for the purposes of the item to mean -

- "(a) the amount which, in the opinion of the Commissioner, represents the average annual value of all sales of goods effected by a person in the course of carrying on business, computed by reference to the following periods:-
- (i) in the case of a person who engaged in business continuously on and from a date not later than five years prior to the beginning of the financial year in which the goods so manufactured are sold - the five financial years next preceding the financial year in which those goods are sold; or
 - (ii) in the case of a person (not being a person to whom the last preceding subparagraph applies) who engaged in business continuously on and from a date not later than the beginning of the financial year next preceding the financial year in which the goods so manufactured are sold - a period commencing on the date upon which

he so commenced to engage in business and terminating on the last day of the financial year next preceding the year in which those goods are sold; or

- (b) in any case (not being a case covered by the last preceding paragraph)where a person who, after commencing to engage in business continues to engage in business up to the date on which the goods manufactured as specified in this item are sold -
 - (i) where that date is prior to the expiration of a period of twelve months after he so commenced to engage in business, the amount which, in the opinion of the Commissioner -
 - (a) if that opinion is formed prior to the expiration of that period - would be or would have been the value of that person's sales of all goods during that period in the event of his continuance in business for the whole of that period; or
 - (b) if that opinion is formed after the expiration of that period - is the value of that person's sales of all goods during that period or would have been the value of those sales if he had continued in business during the whole of that period; or
 - (ii) where that date is after the expiration of a period of twelve months from the date on which he so commenced to engage in business, the amount which, in the opinion of the Commissioner, is the value of that person's sales of all goods during that period of twelve months".

The new provision to be added by paragraph (1) specifies how the value of each sale of goods is to be determined by the Commissioner for the purpose of arriving at an opinion of the average annual value of a person's sales of all goods. In the general run of cases the value to be taken into account will be the amount for which goods are

sold. However, if the manufacturer sells to parties not at arms length, at less than arms length prices, the Commissioner can adopt an arms length price as the measure of value.

Paragraphs (m) and (n) will amend item 103 in the First Schedule to the Principal Act. Item 103 now exempts -

Goods manufactured by a person who satisfies the Commissioner that the amount of sales tax which, but for this item, would be payable by him is not, or would not be, in excess of One hundred dollars per annum:

Provided that -

- (a) where that person has on hand goods in respect of the purchase or importation of which he has quoted his certificate, he has paid to the Commissioner an amount equivalent to the sales tax which would have been payable in respect of the sale to or importation by him of those goods if he had not so quoted his certificate; and
- (b) the Commissioner has issued to that person a statement in writing to the effect that he has been satisfied as specified in this item, and that statement has not been revoked by notice in writing.

Paragraph (m) will substitute \$250 for the amount of one hundred dollars in the item.

Paragraph (n) will omit the reference in item 103 to "Nos.1 to 3" and substitute a reference to "No.1". These numbers which are specified in the second column of the First Schedule against the items to which they apply refer to the Sales Tax Assessment Acts under which the exemption is applicable. Because of constitutional requirements there are nine separate Sales Tax Assessment Acts, each dealing with particular classes of transactions. The Sales Tax Assessment Acts (Nos.1 to 3) deal with sales of Australian made goods. The Sales Tax Assessment Act (No.1) deals with sales by the manufacturer, Act (No.2) deals with sales by a person who purchased the goods from the manufacturer and Act (No.3) deals with sales by a person other than the manufacturer or

a purchaser from the manufacturer. The effect of paragraph (n) will be to limit the application of the exemption to sales by the manufacturer who qualifies for exemption.

Paragraph (o) of clause 3 will omit item 123 in the First Schedule to the Principal Act and substitute for it a new item 123. Item 123 in the First Schedule to the Principal Act now exempts -

"Goods for use by blind persons, namely:-

- (a) braille watches and braille clocks, and movements, parts and keys for those goods;
- (b) braille writing frames, and styles for use with those goods;
- (c) braille machines;
- (d) braille playing cards;
- (e) talking book machines of a kind specially designed for the playing of records of speech for blind persons, and parts and accessories for those machines; and
- (f) records of speech of a kind specifically designed for use with talking book machines covered by paragraph (e)".

The new item 123 to be substituted for existing item 123 in the First Schedule to the Principal Act will exempt goods designed and manufactured expressly for use by persons suffering from any type of sickness, disease or disablement, including blindness or deafness, provided that they are goods of a kind not ordinarily used by persons not suffering from sickness, disease or disablement.

Goods covered by present item 123 will be exempt under sub-item (1) of the new item. Hearing aids covered by present sub-item 42(4) which is being repealed by this Bill will also be exempt under the new item 123. Other devices which will be exempt under this item are -

- . the Optacon, a device which enables blind persons to read printed matter by tactile sensing

- ultrasonic sensing devices which emit audible signals indicating objects in the path of blind persons.

Sub-item (2) of item 123 will exempt parts for goods covered by sub-item (1).

Paragraph (p) of clause 3 will insert in the First Schedule to the Principal Act item 140A, a new item which will exempt rolls for player-pianos.

Paragraph (q) of clause 3 will add to the First Schedule to the Principal Act three new items - item 151, item 152 and item 153.

Item 151 will exempt goods which are to be used in the conversion of internal combustion engines (e.g. motor vehicle engines, marine engines and stationary engines) to enable them to operate on natural gas or liquefied petroleum gas. Paragraphs (a) and (b) of item 151 set out the tests for determining whether goods will qualify for exemption.

Paragraph (a) of item 151 will limit the exemption to those goods that are essential to effect the conversion. The exemption will thus not apply to a replacement for a worn or defective engine component if the replacement is of the same kind as the component being replaced and is fitted at the time of conversion as a matter of convenience. Nor will the exemption apply to a replacement component which is of a different kind to that replaced unless the change is essential to the effective conversion of the engine.

Under paragraph (b) of item 151 the goods will need to form an integral part of the converted engine (e.g. a vaporiser) or of the unit of which the converted engine forms part (e.g. a gas fuel tank or cylinder fitted in the boot of a motor car) or, alternatively, the goods will need to be connected, directly or indirectly, to the converted engine (e.g. a gas fuel tank connected by gas fuel line to a stationary engine).

Subject to certain exceptions, item 152 will provide exemption for space heating appliances of a kind ordinarily used for household purposes. The exceptions will be -

- (a) appliances of a kind that burn kerosene or other refined petroleum oils; and
- (b) air conditioning appliances.

The practical effect of this amendment will be to exempt space heating appliances, mainly portable appliances, (other than the excepted types) of a kind ordinarily used for household purposes that are at present covered by item 1 in the Third Schedule to the Principal Act and taxable at 2½%. Portable household kerosene heaters and household air conditioners will remain taxable at 2½%. Household space heaters of the built-in type, including oil fired, gas fired and electric heaters, are largely exempt from sales tax under the provisions of item 90B(2) in the First Schedule to the Principal Act. They will remain exempt.

Sub-item (2) of item 152 will exempt parts for space heating appliances covered by sub-item (1).

Item 153 will exempt certain classes of goods connected with the use of solar energy.

Sub-item (1) of item 153 will exempt goods of a kind used exclusively, or primarily and principally, for collecting, absorbing or concentrating solar rays for the purpose of using them as a source of heat. This sub-item will exempt solar absorption panels of the type used in heating water for industrial use, for swimming pools or for any other purposes. Solar absorption panels for domestic hot water services are at present exempt under item 90F in the First Schedule to the Principal Act. Item 90F applies to water heating and hot water storage equipment of a kind installed as fixtures in houses but these panels will be covered also by the new provision. Sub-item (1) will exempt also solar concentrators and other devices which focus or concentrate solar rays to provide a heat source for heating water, for cooking food or for industrial or other purposes.

Sub-item (2) of item 153 will provide exemption for photovoltaic cells which convert solar energy to electrical energy. The sub-item will apply to modules or panels of

photovoltaic cells as well as to individual cells. It will not have the effect of exempting articles such as watches, radios and calculators which are equipped with photovoltaic cells.

Sub-item (3) of item 153 will exempt goods which are for use exclusively or primarily and principally in facilitating the operation of solar appliances covered by sub-items (1) and (2). Goods that will be covered by sub-item (3) would include stands or racks for solar collectors or photovoltaic cells and motors which enable solar collectors to track the sun.

Exemption will be provided by sub-item (4) of item 153 for parts for goods covered by sub-items (1), (2) and (3) of that item.

Clause 4 : Third Schedule

Clause 4 will amend the Third Schedule to the Principal Act. The Third Schedule comprises items which specify the classes of goods which are currently subject to tax at 2½%.

The purpose of this clause is to ensure that the exemptions for certain heating appliances provided in sub-item (2) of item 90B in the First Schedule to the Principal Act and to be provided by sub-item (1) of item 152 which is to be added by clause 3 will be fully effective. Some of these heating appliances could be covered also by the terms of paragraph (h) of item 1 in the Third Schedule to the Principal Act. The amendment proposed by this clause will exclude from item 1 in the Third Schedule to the Principal Act goods covered by sub-item (2) of item 90B or sub-item (1) of item 152 in the First Schedule thus removing any duplication that could otherwise occur.