1987

THE PARLIAMENT OF THE COMMONWEALTH

OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SALES TAX (OFF-SHORE INSTALLATIONS) AMENDMENT BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,

the Hon. P.J. Keating, M.P.)

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GENERAL OUTLINE

The purpose of this Bill is to extend the application of the sales tax law to certain off-shore installations that are installed in Australian waters for a number of prescribed purposes, including tourism, recreation, business activities, marine archaeology, fishing or any scientific or transport activity (proposal announced on 21 January 1987). The Bill, together with the Sea Installations Bill 1987 and the Sea Installations (Miscellaneous Amendments) Bill 1987, are designed to apply certain revenue, health and immigration laws to such off-shore installations as if they were part of Australia.

The Bill will amend -

. the Sales Tax Assessment Acts (Nos.1 to 9) 1930 and the Sales Tax Assessment Act (No.10) 1985 -

.. to deem, for sales tax purposes, installations that are installed in Australian waters for a wide range of prescribed purposes to be part of Australia from the date of installation, thereby applying the sales tax law to any acts or transactions on the installations as if those acts or transactions had occurred within geographical Australia;

.. to extend the boundaries of the off-shore areas to which the sales tax law is to apply;

. the Sales Tax Assessment Act (No.5) 1930 -

.. to provide that an installation which is brought from overseas and which is deemed to be part of Australia will also be deemed, together with any goods on the installation, to be imported into Australia and therefore liable to Australian sales tax in respect of that importation;

.. to provide that an installation (together with any goods on the installation) which ceases to be part of Australia is to be deemed to be exported from Australia at that time;

. the Crimes (Taxation Offences) Act 1980 -

.. to extend the Act to the expanded range of off-shore installations to which the sales tax law is to apply.

FINANCIAL IMPACT

Revenue from operations in off-shore areas is indeterminate and will depend on development of installations in the off-shore areas.

INTRODUCTORY NOTE

Sales tax is a single stage tax levied on, or in relation to, goods. In general, it is designed to fall at the wholesale level, but is payable by manufacturers and importers, as well as by wholesalers, the tax in each case 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 taxable, 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 the entry for home consumption of imported goods where they are not entered for sale by a wholesaler, e.g., where they are entered by a retailer or consumer. Where a person pays a royalty in relation to goods in circumstances where the amount of the royalty is not part of the sale value of the goods, tax is payable by the person paying the royalty at the rate applicable to the goods.

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

The sales tax legislation is contained in a number of separate Acts. In addition, there is a series of Regulations that are complementary to those Acts.

There are 11 basic Sales Tax Acts (Rating Acts) that specify the rates at which tax is payable. Where royalties are payable in respect of goods, and the royalties are not subject to tax under the Rating Acts, three further Sales Tax Acts impose tax on the royalty payments but at the rates that are applicable in relation

to the particular goods under the basic Rating Acts. Each of the basic Rating Acts has a complementary Sales Tax Assessment Act providing the machinery for assessment, collection and administration of the tax imposed by the related Sales Tax Act. There is also a Sales Tax Assessment Act for the three Sales Tax Acts relating to royalty payments.

MAIN FEATURES

The purpose of this Bill is to extend the application of the sales tax law to certain off-shore installations that are installed in Australian waters. The existing sales tax law does not generally extend to the external territories or to offshore areas. However, as a result of amendments made in 1982, the sales tax law was given a limited application in the Australian continental shelf area in respect of certain installations attached to the seabed for the purposes of exploration and exploitation of the mineral and other non-living resources of the seabed.

The amendments made by this Bill are essentially two-fold -

- first, to extend the boundaries of the off-shore areas to which the sales tax law applies;

- second, to expand the types of off-shore installations which will be subject to Australian sales tax law when installed in these areas.

Extension of off-shore areas to which the sales tax law applies
(Clause 4)

Currently the sales tax law extends to certain prescribed installations within the areas described in Schedule 2 to the Petroleum (Submerged Lands) Act 1967 and within the Coral Sea area as defined in that Act, where those areas form part of the Australian continental shelf, the seabed beneath the Australian territorial sea or the seabed beneath any internal waters (such as bays and inlets) which come within Commonwealth control. The amendments proposed by this Bill will extend the scope of the sales tax law to areas within 200 nautical miles of the territorial limits of Australia, the Territory of Ashmore and Cartier Islands, and the Coral Sea Island Territories. In some areas, this will extend beyond the limit of the continental shelf.

Expansion of types of off-shore installation to which sales tax applies
(Clause 4)

The Bill will also expand the class of off-shore installations to which the sales tax law will apply to include "sea installations". "Sea installations" will be defined as any man-made structure, that when in physical contact with the seabed, can be used for an "environment related activity" (see below) but will not include -

- certain cargo ships, dumping vessels, fishing installations or pearling vessels;
- historic wrecks or relics;
- navigational aids;
- off-shore industry fixed structures or off-shore industry mobile units;
- defence structures;
- submarine cable installations; or
- other structures that may be prescribed.

An "environment related activity" will include any activity relating to -

- tourism or recreation;
- the carrying on of a business;
- exploring, exploiting or using the living resources of the seabed or of the subsoil of the seabed;
- marine archaeology;
- any other purpose that may be prescribed.

Additionally, an environment related activity will include a scientific activity and a transport activity.

Installations deemed to be part of Australia
(Clause 5)

The Bill will apply the sales tax law to any goods on an installation which are the subject of a transaction or act which would be taxable if it occurred within geographical Australia. As a consequence of giving an installation the status of part of Australia -

- goods which are manufactured on an installation will be treated as goods manufactured in Australia for the purposes of the Sales Tax Acts (Nos 1 to 4) and the Sales Tax Assessment Acts (Nos 1 to 4);

- goods which are brought to the installation from a place outside Australia will be treated as goods imported into Australia for the purposes of the Sales Tax Acts (Nos 5 to 8) and the Sales Tax Assessment Acts (Nos 5 to 8) and goods taken off the installation to a place outside Australia will be treated as being exported from Australia;

- goods on the installation which are dealt with by sale or lease, or applied to own use, will be treated as goods in Australia which are sold, leased or applied to own use for the purposes of Sales Tax Acts (Nos 1 to 4 and 6 to 9) and the Sales Tax Assessment Acts (Nos 1 to 4 and 6 to 9);

- any transaction involving the payment of a royalty that takes place on an installation will be subject to sales tax in the same circumstances as would be the case if the transaction took place in geographical Australia;

- goods which -

  .. are taken from geographical Australia to the installation

  .. are taken from the installation to geographical Australia

  .. are taken from the installation to another installation

  will be treated as a movement of goods between 2 places in Australia.

Additionally, at the time an installation that is brought from overseas is deemed to become part of Australia, the installation and any goods on the installation at that time, will, for sales tax purposes, be deemed to be imported into Australia and will be liable, unless they are exempt from sales tax, to tax in respect of that importation.

When an installation ceases to be considered as part of Australia, the proposed amendments will deem the installation, and any goods on it at that time, to be exported from Australia.

A more detailed explanation of the provisions of the Bill is contained in the following notes.

SALES TAX (OFF-SHORE INSTALLATIONS) AMENDMENT BILL 1987

PART 1 - PRELIMINARY

Clause 1 : Short title

This clause provides for the amending Act to be cited as the Sales Tax (Off-shore Installations) Amendment Act 1987.

Clause 2 : Commencement

Subsection 5(IA) of the Acts Interpretation Act 1901 provides that, unless otherwise specified, Acts shall come into operation on the twenty-eighth day after Royal Assent. Under subclause 2(1) this Act will, subject to subclauses 2(2) and 2(3), come into operation on the day of Royal Assent.

By subclause 2(2) Parts II, III and IV (which are all the operative provisions of the Bill) will, with one exception, be deemed to have come into operation on 21 January 1987 - the date from which these provisions were announced to apply (Treasurer's announcement of 21 January 1987).

Under subclause 2(3), proposed new subsection 3B(2) of Sales Tax Assessment Act (No.1) 1930 (see clause 5), will come into operation on the date of introduction of the Bill. Subsection 3B(2) will extend the circumstances in which an installation will be taken to be installed in Australian waters. This measure was not included in the Treasurer's announcement of 21 January 1987.

PART II - AMENDMENT OF SALES TAX ASSESSMENT ACT (NO.1) 1930

Clause 3 : Principal Act

Clause 3 facilitates reference to the Sales Tax Assessment Act (No.1) 1930 which, in Part II of the Bill, is referred to as the 'Principal Act'.

Clause 4 : Interpretation

Clause 4 will amend section 3 of the Principal Act, which contains the general definition and interpretation provisions that apply throughout the Principal Act. These provisions will also apply to -

- the Sales Tax Assessment Acts (Nos. 2 to 10), by virtue of special application provisions in each of those Acts;

- the Sales Tax Acts (Nos 1 to 10), which provide that each Sales Tax Act is to be incorporated and read as one with its corresponding Assessment Act; and

- the Sales Tax (Exemptions and Classifications) Act 1935, which provides that any expression used in the applicable Sales Tax Assessment Act will, unless the contrary intention appears, have the same meaning for the purposes of that Act.

Paragraph (a) of clause 4 will amend subsection 3(1) of the Principal Act to exclude the definitions of "Australian installation", "Australian seabed", "Australian waters" and "Installation". Each of these definitions, which are integral to the application of the sales tax law to installations in off-shore areas, will be replaced by definitions proposed by paragraph (b) of this clause, which are as follows:

"aircraft" is defined so as to include not only fixed wing aircraft but also such other machines or apparatus that can derive support in the atmosphere from the reactions of the air or from buoyancy e.g. flying boats, seaplanes, hovercraft, hot air balloons, airships etc. An aircraft is one of the structures that can constitute a "sea installation" (defined below);

"Australian fishing zone" is a key component of the revised definition of "Australian waters", which is the off-shore area to which the sales tax law applies in certain circumstances. Broadly, the "Australian fishing zone" is an area of 200 nautical miles from the territorial limits of Australia, the Territory of Ashmore and Cartier Islands and the Coral Sea Islands Territory;

"Australian installation" is an installation which, when installed within "Australian waters" (defined below) is treated as part of Australia and, together with any goods on the installation, is subject to Australian sales tax law;

"Australian seabed" is the seabed beneath "Australian waters" (defined below). Certain installations, when attached to the seabed beneath Australian waters, will be treated as part of Australia and subject to Australian sales tax law;

"Australian waters" is the extended geographical area to which the Australian sales tax law applies. Currently the sales tax law is restricted to certain prescribed installations installed within the outer limits of the continental shelf. By this revised definition of "Australian waters" the

scope of the sales tax law will extend to the waters within the "Australian fishing zone" (see notes above on this term) which encompasses the area within 200 nautical miles of the territorial limits of Australia, the Territory of Ashmore and Cartier Islands, and the Coral Sea Island Territories. In some areas, this will extend beyond the outer limits of the continental shelf. The term also includes the waters on the landward side of those waters, but so that ships anchored in ports or harbours will not be treated as installed installations for the purposes of the sales tax law (see notes on clause 5), it does not include waters of a port or harbour. Also excluded are waters over which, under an agreement in force between Australia and another country, Australia does not exercise sovereign rights;

"environment related activity" is a term used in the definition of "sea installation" (see later notes) and is critical to the determination of the type of installation to which the amendments are to apply. Before a structure will be considered as a "sea installation" - and therefore within the meaning of the term "installation" (see notes below) - it must be capable of being used for an "environment related activity" when in contact with the seabed or when floating in Australian waters. The term will include any activity relating to tourism or recreation, exploring, exploiting or using the living resources of the sea (whether by fishing, pearling, oyster or fish farming or otherwise), the carrying on of a business, marine archaeology, or such other activities as may be prescribed. It also extends to scientific or transport activities which are both defined terms;

"excluded dumping vessel" is one of many exclusions from the defined term "sea installation" and is, broadly, any vessel which is authorised to dump or incinerate matter under the Environment Protection (Sea Dumping) Act 1981;

"excluded fishing installation" is another exclusion from the defined term "sea installation" and means fishing equipment, a licensed fishing boat or fish aggregating device that is being used solely for commercial fishing purposes, or a mariculture platform that is being used solely for the purpose of rearing and harvesting fish, crustaceans or molluscs;

"excluded pearling vessel" is any vessel licensed under the law of a State or Territory to carry out pearling operations. When such a vessel is being used solely in carrying out those operations, it will not be considered a "sea installation" (as defined) for the purposes of the proposed amendments;

"excluded wreck" means an historic shipwreck or relic within the meaning of the Historic Shipwrecks Act 1976 or any other wreck as determined under the Navigation Act 1912. Wrecks that satisfy the criteria required for classification by these Acts will be excluded from the definition of "sea installation" for the purposes of the proposed amendments;

"installation" is either -

- a "sea installation" (see later notes on the definition of that expression), which is an expansion of the category of off-shore installations to which the sales tax law is to apply;

- an off-shore industry fixed structure as defined in subsection 3(9) of the Principal Act as a structure (including a pipeline) which cannot be moved from place to place and which is to be used in any activities associated with, or incidental to, exploring the non-living resources of the Australian seabed; or

- an off-shore industry mobile unit as defined in subsection 3(10) of the Principal Act as a vessel or other floatable and moveable structure which is to be used wholly or principally for drilling the seabed (or for similar activities) with equipment on or forming part of the unit, or for purposes which are incidental to activities of that kind;

"scientific activity" is an "environment related activity" (see notes above on the meaning of this term) and is any activity relating to scientific research;

"sea installation" means any man-made structure that can be used for an "environment related activity" (see notes above on the meaning of this term) when either floating or in contact with the seabed. The term includes a partly completed structure or the remains of such a structure. It does not include an off-shore industry fixed

structure or an off-shore industry mobile unit which are structures separately included in the definition of "installation" above. Also excluded are defence structures, navigational aids and defined cargo ships, dumping vessels, ship wrecks, pearling vessels, submarine cables, and other structures which may be prescribed. A "sea installation" is one of the three categories of structures included in the definition of "installation" (see notes above) - it being the only type of structure not already subject to sales tax;

"ship" is a vessel designed for use in navigation by water and is one of the structures that can constitute a "sea installation" (defined above);

"structure" is defined as including a ship (see note above), an aircraft (see notes above on this term) and any other vessel;

"submarine cable installation" means an overseas telecommunications cable or a vessel which is installing or servicing such a cable. It is expressly excluded from the meaning of "sea installation" (see notes above);

"transport activity" is an "environment related activity" and means the mooring of ships or the mooring or landing of aircraft.

Subsections 3(12) and (13) of the Principal Act are to be repealed by paragraph 4(c) which will also insert a new subsection 3(12) to replace the previous subsection 3(12). New subsection 3(12) will exclude from the categories of off-shore industry mobile unit or sea installation, certain vessels which, while being wholly or principally engaged in activities incidental to resource exploration and exploitation or environment related activities, are nevertheless not to be treated as such structures. These will be vessels which are either engaged in transporting persons or goods to or from an installation or in manoeuvring or attaching an installation to the Australian seabed. Subsection 3(13) is to be replaced by proposed subsections 3B(1) and (2) (see notes following on clause 5).

Clause 5 : Installations in Australian waters

This clause will insert a new section - section 3B - in the Principal Act. Proposed subsection 3B(1) will describe the circumstances in which an installation is to be regarded as installed in Australian waters. This is an essential concept because installations which are taken to be installed in Australian waters by virtue of this subsection will, under proposed subsection 3C(1) of the

Principal Act (see later notes on this subsection), be deemed to be part of Australia. The consequence of this is that the sales tax law will apply to transactions or acts involving goods on those installations as if those acts or transactions involved goods in Australia.

By virtue of proposed paragraph 3B(1)(a) an installation will be treated as being installed in Australian waters if it is in, or is brought into, physical contact with the Australian seabed. An example would be when an anchor or similar mooring device is dropped to the seabed.

In addition, by virtue of proposed paragraph 3B(1)(b), an installation which is not itself in physical contact with the Australian seabed will be treated as installed in Australian waters where the installation is in, or is brought into, physical contact with another installation which is in physical contact with the seabed. Further, all subsequent installations will also be taken to be installed in Australian waters where those installations are in, or brought into, physical contact with an installation which is taken to be installed by virtue of it being in, or brought into, physical contact with an installation which is in physical contact with the Australian seabed. That is, an installation which comes into physical contact with any installation which is taken to be installed by virtue of subsection 3B(1) will also be taken to be installed.

Proposed subsection 3B(2) will treat an installation as installed in Australian waters at a particular time if, although not in contact with the seabed, the installation (or any part of it) has remained within an area with a radius of 20 nautical miles for a continuous period of 30 days immediately prior to that time or one or more periods during the preceding 60 days that amount to 40 days. Thus, certain ships which remain constantly or continuously in the areas concerned, and otherwise would provide a basis for evasion of the legislation, will be subject to sales tax in a similar manner to more permanent structures (but see following note on proposed subsection 3B(3)).

By virtue of proposed subsection 3B(3), a ship or aircraft that is in contact with the Australian seabed or an installed installation for less than 5 days (or 30 days in the case of a foreign ship) will not be taken to be installed for the purposes of proposed subsection 3B(1) or (2). This subsection takes into account the fact that a non-exempt ship may be required to remain in an area for a number of days but should not be subject to the proposed amendments. The provision of an extended period (30 days) for foreign ships acknowledges Australia's obligation in respect of foreign shipping.

Proposed subsection 3B(4) makes it clear that an installation will only be taken to be installed in Australian waters if it is considered to be installed under either proposed subsection 3B(1) or (2).

Similarly, proposed subsection 3B(5) is intended to clarify the meaning of the term "brought into physical contact with the seabed or an installation" by providing that it will be so considered if the installation is connected by a cable or other device.

In order to impose tax on an off-shore installation which is to be taken to be installed in Australian waters for the purposes of the sales tax law, or on any goods on that installation, the Principal Act is to be amended by inserting a new section - section 3C - which will provide for each such installation to have the status of a place in Australia for the duration of its installation. As a consequence of this, any act or transaction involving goods on an installation which would be taxable if the goods were in geographical Australia will be taxable as if the goods were in Australia. Therefore -

- goods which are manufactured on an installation will be treated as goods manufactured in Australia for the purposes of the Sales Tax Acts (Nos 1 to 4) and the Sales Tax Assessment Acts (Nos 1 to 4);

- goods which are brought to the installation from a place outside Australia will be treated as goods imported into Australia for the purposes of the Sales Tax Acts (Nos 5 to 8) and the Sales Tax Assessment Acts (Nos 5 to 8) and goods taken off the installation to a place outside Australia will be treated as being exported from Australia;

- goods on the installation which are dealt with by sale or lease, or applied to own use, will be treated as goods in Australia which are sold, leased or applied to own use for the purposes of Sales Tax Acts (Nos 1 to 4 and 6 to 9) and the Sales Tax Assessment Acts (Nos 1 to 4 and 6 to 9);

- any transaction involving the payment of a royalty that takes place on an installation will be subject to sales tax in the same circumstances as would be the case if the transaction took place in geographical Australia;

- goods which -

  .. are taken from geographical Australia to the installation

.. are taken from the installation to geographical Australia

.. are taken from the installation to another installation

will be treated as a movement of goods between 2 places in Australia.

Proposed subsection 3C(1) will deem any installation which is taken to be installed in Australian waters by virtue of proposed subsection 3B(1) or (2) of the Principal Act to be part of Australia. As explained in the notes on proposed subsection 3B(1), such an installation will include both one which is itself in physical contact with the Australian seabed as well as any installation which, while not being attached to the seabed, is in physical contact with another installation which is taken to be installed.

By operation of proposed subsection 3C(2) an installation will continue to be treated as part of Australia until the installation is removed from its location for the purposes of being taken to a place outside Australian waters or, after having been removed for another purpose, it is removed for the purpose of being taken outside Australian waters.

In the first of these circumstances the installation will cease to be part of Australia from the time it is removed from its location and, in the second circumstance, the installation will cease to be part of Australia from the time when the installation is first removed from its location for the purpose of being taken outside Australian waters. It will make no difference whether the installation is to be taken directly from its position outside Australian waters or whether it is first to be taken to a place in Australia.

Upon an installation ceasing to be part of Australia as described above, the sales tax law will no longer apply to the installation or to any goods on the installation at the time of its ceasing to be part of Australia except to deem the installation and the goods to be exported at that time.

PART III - AMENDMENT OF SALES TAX ASSESSMENT ACT (NO.5) 1930

Clause 6 : Principal Act

This clause provides for the Sales Tax Assessment Act (No.5) 1930, which is being amended by Part III, to be referred to in that Part as the 'Principal Act'.

Clause 7 : Insertion of proposed sections 2C and 2D

The purpose of this clause is to insert into the Principal Act two new sections - sections 2C and 2D - which will provide that -

- an installation which is brought from overseas to be installed in Australian waters is to be treated as having been imported into Australia (proposed section 2C);
- any goods on such an installation at the time the installation is taken to be imported are to also be treated as having been imported into Australia (proposed section 2C);
- an installation which ceases to be part of Australia is to be taken to be exported from Australia at the time when it ceases to be part of Australia (proposed subsection 2D(1));
- any goods on such an installation at the time when it ceases to be part of Australia are to be taken to be exported from Australia (proposed subsection 2D(1));
- an installation which is taken from a place in Australia into Australian waters for the purpose of being installed in Australian waters is not to be treated as having been exported from Australia (proposed subsection 2D(2)).

New subsection 2C(1) will apply where an installation is brought into Australian waters direct from overseas and is taken to be installed in Australian waters by virtue of proposed subsection 3B(1) or 3B(2) of the **Sales Tax Assessment Act (No.1)**. By the operation of subsection 2C(1), the installation , together with any goods on the installation at the time when it is, or is taken to be, installed in Australian waters, will be deemed to be imported into Australia at the time the installation is taken to be installed.

Where an installation is first brought to a place within geographical Australia and the intention is then held or is subsequently formed that the installation will be taken from that place into Australian waters to be installed in Australian waters,proposed subsection 2C(2) will apply. In these circumstances, the installation, together with any goods which were on the installation at the time when it was first brought into Australia, will be deemed to have been imported into Australia at that time.

The effect of this proposed section will be that, subject to any overriding exemptions provided by the Sales Tax (Exemptions and Classifications) Act 1935, an installation and goods on the installation will be liable to sales tax as if the installation and the goods had been imported into mainland Australia.

Proposed subsection 2D(1) will apply to an installation which is removed from its location for the purpose of being taken outside Australian waters, and which by the operation of proposed subsection 3C(2) of Sales Tax Assessment Act (No.1) 1930, ceases to be part of Australia. In this situation, proposed subsection 2D(1) will deem -

- the installation; and
- any goods on the installation at the time it ceases to be part of Australia,

to be exported from Australia. The effect of this subsection will be that sales tax paid on the installation or any goods on the installation could be made the subject of an application for refund of the tax under subregulation 58(1) of the Sales Tax Regulations or could be entitled to drawback of sales tax under section 11A of the Principal Act.

By proposed subsection 2D(2) an installation which is taken from a place in Australia into Australian waters for the purpose of being installed in Australian waters will not be regarded as having been exported from Australia. Accordingly, no eligibility will arise for a refund or drawback of any tax paid on that installation or goods on that installation.

PART IV - CONSEQUENTIAL AMENDMENTS OF OTHER LAWS

Clause 8 : Consequential amendments of other laws

This clause provides for consequential amendments of a number of other laws as specified in the Schedule to the Bill.

Schedule

The schedule to the Bill lists a number of amendments to be made of other laws.

Item 1 will repeal section 2A of Sales Tax Acts (Nos 1 to 4 and 6 to 9) 1930. In 1982, in order to impose sales tax on off-shore installations which were to be taken to be attached to the Australian seabed for the purposes of exploring for or exploiting the natural non-living resources of the seabed (or on any goods on those installations) each of the Sales Tax Acts was amended by

inserting a new section - section 2A - which provided for each such installation to have the status of a place in Australia, for the purposes of both the Sales Tax Act and its corresponding "assessment" Act , for the duration of its attachment. As a consequence of this, any act or transaction involving goods on an installation which would be taxable if the goods were in geographical Australia were made taxable as if the goods were in Australia.

The amendments proposed by this Bill will make section 2A in each of the Sales Tax Acts unnecessary. A similar provision to section 2A - proposed section 3C (see earlier notes) - is to be inserted in the Sales Tax Assessment Act (No.1), and each of the application provisions of each of the Sales Tax Assessment Acts (Nos. 2 to 10) is to be amended to apply the provisions of proposed section 3C of Assessment Act (No.1) to each of these "assessment" Acts (see notes on Items 4 and 5 of this Schedule). In addition, these provisions will apply to the corresponding Sales Tax Acts which provide that each Sales Tax Act is to be incorporated and read as one with its corresponding "assessment" Act.

Item 2 will repeal sections 2A (see notes on Item 1 above), 2B, 2C, 2D and 2E of Sales Tax Assessment Act (No.5) 1930, all of which were inserted in 1982 to apply the Act to off-shore installations engaged in exploiting and exploring the natural non-living resources of the seabed. The amendments to be made by this Bill will make these sections unnecessary.

Subsection 2B(1) applies where an installation is brought into Australian waters direct from overseas and is taken to be attached to the Australian seabed by virtue of subsection 3(13) of the Sales Tax Assessment Act (No.1). By the operation of subsection (1), the installation, together with any goods on the installation at the time when it is, or is taken to be, attached to the seabed, is deemed to be imported into Australia. Where an installation is first brought to a place within geographical Australia and the intention is then held or is subsequently formed that the installation will be taken from that place into Australian waters to be attached to the seabed, subsection 2B(2) applies. In these circumstances, the installation, together with any goods which were on the installation at the time when it was first brought into Australia, will be deemed to have been imported into Australia at that time. As can be seen from the notes above on proposed section 2C of Sales Tax Assessment Act (No.5), the provisions of that section will replace the existing provisions contained in section 2B.

Section 2C was inserted to ensure that any goods which are brought onto an installation which is deemed to be part of Australia from a place outside Australia will be liable to sales tax as if those goods had been imported

into geographical Australia. This is achieved by deeming these goods to have been imported into Australia at that time for the purposes of the Sales Tax Act (No.5) and the Sales Tax Assessment Act (No.5). However, as indicated in the above notes on proposed subsection 3(1) of Sales Tax Assessment Act (No.1), the effect of that subsection will be to treat an installation installed in Australian waters as a part of Australia whilst it remains installed. The consequence of this is that any goods which are brought onto such an installation from a place outside Australia will be liable to sales tax in the same manner as if the goods had been imported into geographical Australia.

Subsection 2D(1) was inserted to apply to an installation which is detached from the Australian seabed, or from another installation which is attached to the Australian seabed, and which by the operation of subsection 2A(2), ceases to be part of Australia. In this situation, subsection 2D(1) deems the installation and any goods on the installation at the time it ceases to be part of Australia, to be exported from Australia. By subsection 2D(2) an installation which is taken from a place in Australia into Australian waters for the purpose of being attached to the Australian seabed is not regarded as having been exported from Australia. These provisions are to be replaced by the proposed subsections 2D(1) and (2) respectively of Sales Tax Assessment Act (No.5) - see notes above on those subsections.

Section 2E, which is complementary to section 2C, was inserted to ensure that goods which are taken from an installation to a place outside Australia are treated as being exported for the purposes of Sales Tax Act (No.5) and Sales Tax Assessment Act (No.5). However, as the proposed subsection 3C(1) of the Sales Tax Assessment Act (No.1) will deem an installation as part of Australia for sales tax purposes, goods which are taken from an installation to a place outside Australia will automatically be treated as exported and the relevant sales tax law will apply.

Item 3 will amend Sales Tax Acts (Nos. 10A to 10C) 1985 by omitting subsections 4(2) and 4(3) of each Act. These subsections correspond to section 2A of the other Acts and are to be repealed for the reasons stated in the notes on Item 1.

As stated above, by virtue of application provisions contained in each of the Sales Tax Assessment Acts (Nos. 2 to 11) the definitions and interpretation provisions of the Sales Tax Assessment Act (No.1) apply, mutatis mutandis, to those Acts. Items 4 and 5 will amend subsection 12(1) of each of the Assessment Acts (Nos. 2 to 10) - provisions relating to off-shore installations are of no relevance to Assessment Act (No.11) - to ensure that proposed sections 3B and 3C of Sales Tax Assessment Act (No.1) will apply to each of those Acts. In addition, the

provisions of those sections will also apply to the corresponding Sales Tax Acts which provide that each Sales Tax Act is to be incorporated and read as one with its corresponding Assessment Act.

The Sales Tax (Exemptions and Classifications)Act 1935, specifies, by Schedules, the classes of goods in respect of which sales tax is either not payable (exempt goods) or is payable at particular rates (classified goods) when those goods are the subject of acts or transactions on which tax is imposed by any of the Sales Tax Acts (Nos. 1 to 9 or 11). The First Schedule specifies those goods which are exempt from sales tax. The Second, Third, Fourth and Fifth Schedules specify those goods which are liable to tax at the rates specified for goods in those Schedules by the Sales Tax Acts (Nos. 1 to 9 or 11).

In 1982 the Exemptions and Classifications Act was amended to insert sections 6D to 6H. Section 6D is identical to each of the sections 2A in the Sales Tax Acts. Sections 6E to 6H are identical to sections 2B to 2E in Sales Tax Act (No.5). For the reasons given in the notes for the repeal of those various provisions, sections 6D to 6H of the Sales Tax (Exemptions and Classifications) Act 1935 are to be repealed by Item 6.

Item 7 will amend the definition of "Australian installation" in subsection 3(1) of the Crimes (Taxation Offences) Act 1980 to extend the application of that Act to the expanded range of off-shore installations proposed to be covered by the amendments of Sales Tax Assessment Act (No.1).

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