

**1990-91-92**

**THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA**

**SENATE**

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**Sales Tax Assessment Bill 1992**

**Sales Tax (Exemptions and Classifications)  
Bill 1992**

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**ADDENDUM TO SUPPLEMENTARY  
EXPLANATORY MEMORANDUM**

**(Circulated by the authority of the Treasurer,  
the Hon. J.S. Dawkins, M.P.)**



## **General Outline**

### **Deemed manufacturers**

Replacement amendments of the Sales Tax (Exemptions and Classifications) Bill 1992 will make one change to the original proposed amendments. The proposed business inputs exemption for a person who supplies materials to be made up into goods will be extended. The exemption will now be allowed if the made-up goods are for wholesale sale, and/or indirect marketing sale, by the supplier. The original amendments did not allow the exemption if the goods were for indirect marketing sale.

### **Exempt use**

The original amendments of the Sales Tax (Exemptions and Classifications) Bill 1992 will allow exemption for goods that are:

donated to always exempt bodies;

incorporated into other goods that are for use by a person in exempt circumstances; and

incorporated into property owned by or leased to, an always exempt body.

The additional amendment to the Sales Tax Assessment Bill 1992 will allow a credit for goods used in these circumstances if the goods have already borne tax.

# Sales Tax (Exemptions and Classifications) Bill 1992

## Deemed Manufacturers

### 1. Explanation of additional amendment

The replacement amendment of the Sales Tax (Exemptions and Classifications) Bill will allow business inputs concessions to be available for a person who supplies materials to a manufacturer to be made up into goods, provided that the made-up goods are mainly for wholesale sale and/or indirect marketing sale by the supplier.

*[Amendment No. 3 of the E&C Bill (new definition of 'wholesaler's-materials goods' in subclause 3(2))]*

**Effect of the original amendments:** The original amendments (No's. 2, 3 and 10 to 15) will allow business inputs concessions to continue to be available for a person who supplies materials to a manufacturer to be made up into goods, provided that the made-up goods were mainly for *wholesale* sale by the supplier. As virtually all wholesale sales of the made-up goods would be within the tax base, the proviso would ensure that the concessions would only be available where the cost of the business inputs would be included in the taxable value of a later dealing with the made-up goods. Retail sales would be excluded from the scope of the exemption because they are generally not taxable dealings and, consequently, the cost of the business inputs would not be included in the tax base.

**Reason for change:** There is a category of retail sale, known as an indirect marketing sale, which is also an assessable dealing. These sales occur where a person, who has not manufactured the goods, sells them through another person (such as a door-to-door commission agent) who is not an employee. As the value of any business inputs would be included in the taxable value of an indirect marketing sale of the made-up goods, it is consistent and equitable for the concessions also to be available if the made-up goods are mainly for wholesale sale and/or indirect marketing sale.

## 2. Alterations to the Supplementary Explanatory Memorandum

The following alterations to the Supplementary Explanatory Memorandum are required to reflect the proposed additional amendment discussed above:

*General Outline and Financial Impact, page 4, under heading 'Deemed Manufacturers', omit the paragraph headed 'Change to the Bill', and substitute the following:*

**"Change to the Bill:** Business inputs concessions will be available for a person who supplies materials to a manufacturer to be made up into goods, provided that the made-up goods are mainly for wholesale and/or indirect marketing sale by the supplier."

*Paragraph 5.1, page 30, omit the paragraph and substitute the following :*

**"5.1** Access to business inputs concessions will be extended to a person who supplies materials to a manufacturer to be made up into goods, provided that the made-up goods (to be referred to as 'wholesaler's-materials goods') are mainly for wholesale sale and/or for indirect marketing sale, by the supplier of the materials. The new provision will not apply if the materials supplied have been purchased from the manufacturer.

*[Amendment No. 3 of the E&C Bill (new definition of 'wholesaler's-materials goods' in subclause 3(2))]*

*Paragraph 5.11, omit subparagraph (d) and the Note immediately following that paragraph, and substitute:*

- "(d) it must be likely, at the time of delivery of the made-up goods by the manufacturer, that the made-up goods are to be sold by the exemption user *mainly* by wholesale sale and/or by indirect marketing sale. To satisfy this test, it will be necessary that more than half of the sales of all goods manufactured for the exemption user (as mentioned in paragraph (a)), out of the materials supplied by the exemption user (as mentioned in paragraphs (b) and (c)), will be sold either by wholesale and/or by indirect marketing sale by the exemption user. Made-up goods intended for *retail* sale by the supplier of the materials will not be able to be taken into account in this calculation.

**Note:** Later *wholesale* sales of the made-up goods will be subject to an assessable dealing (i.e. AD 1b), and later *indirect marketing* sales of the made-up goods will be subject to an assessable dealing (i.e. AD 2d). The taxable value of these dealings will

include an amount to reflect the cost of the supplier's business inputs. However, where the made-up goods are for later *retail* sale, they will generally not be subject to a later assessable dealing, and the cost of the supplier's business inputs will not have been included in the taxable value of the delivery of the made-up goods.

*[Amendment No. 3 of the E&C Bill (new definition of 'wholesaler's -materials goods' to be inserted in subclause 3(2))]*

## Sales Tax Assessment Bill 1992

### Exempt use

#### 1. Explanation of additional amendment to insert Credit Ground CR5A

**Effect of the original amendments:** The Sales Tax (Exemptions and Classifications) Bill will be amended to exempt the following goods:

- goods donated to always exempt bodies (for example, certain charities);
- goods incorporated (for example, by a repairer) into other goods that are for use by a person in exempt circumstances; and
- goods incorporated into property owned by or leased to, or to be owned by or to be leased to, an always exempt body.

**Effect of the additional amendment:** The additional amendment will insert a new credit ground (CR5A) to apply in these situations, if the goods have already borne tax.

**Reason for change:** In the above cases, the goods would be drawn mostly from tax-paid stock, so that the exemption user would require a credit for the tax already paid, rather than an exemption from tax. As a general rule, credits will only be available under the new law to wholesalers, retailers and *registered* exemption users. However, the insertion of credit ground CR5A will allow these exemption users to obtain a credit directly from the Commissioner where the goods are supplied on a tax-free basis.

## 2 Alterations to the Supplementary Explanatory Memorandum

The following alterations to the Supplementary Explanatory Memorandum are required to reflect the proposed amendment to insert new credit ground CR5A:

*General Outline and Financial Impact, page 5, under heading 'Donations to and by exempt bodies', omit the paragraph headed 'Change to Bill', and substitute the following:*

**"Change to the Bill:** An exemption (and credit) will be provided for goods donated to exempt bodies. An exemption will also be provided for goods given away by exempt bodies and goods for use as prizes and awards by exempt bodies."

*General Outline and Financial Impact, page 5, under heading 'Repairs to goods owned by exempt bodies and exempt users', omit the paragraph headed 'Change to Bill', and substitute the following:*

**"Change to the Bill:** An exemption (and credit) will be provided for parts and materials incorporated by external repairers into goods owned by exempt bodies and exempt users."

*General Outline and Financial Impact, page 6, under heading 'Buildings owned or leased by exempt bodies', omit the paragraph headed 'Change to Bill', and substitute the following:*

**"Change to the Bill:** An exemption (and credit) will be provided, broadly, for goods incorporated into buildings that are owned by exempt bodies or leased by exempt bodies."

*Insert at the end of page 42 the following:*

**"Credit Ground 5A: AOU where certain exemption Items are satisfied**

**General description:** Claimant has applied assessable goods to own use in circumstances that satisfy exemption Item 192, 193 or 194. Claimant has borne tax on the goods.

**Coverage:** This ground will enable any person to obtain a credit direct from the Commissioner if the person applies tax-paid goods to own use in circumstances that satisfy one of three exemption Items.

This would occur when the claimant has failed to quote in respect of the purchase or delivery of the goods. The Items are:

- **Item 192**, which will exempt goods used in the construction, repair etc. of property that is owned or leased by an exempt body or a foreign government;
- **Item 193**, which will exempt goods donated or loaned to an exempt body or a foreign government;
- **Item 194**, which will exempt goods for use by a person so that property in them passes to another person, provided that the other person could have quoted for the goods if the other person had purchased them.

**Note:** These exemption Items are proposed to be inserted in the new law by Amendment No. 17 of the Sales Tax (Exemptions and Classifications) Bill 1992. These Items are described in greater detail in the Supplementary Explanatory Memorandum, at pages 37 to 42.

The amount of the credit will be the amount of the tax previously borne by the claimant.

**Requirement that the tax has *not* been passed on:** Yes.

**Change from existing law:** Under the existing law, goods used in the repair of goods or in the construction of property for the owner are deemed to be sold to the owner. If tax-paid goods are deemed to be sold to an exempt body or exempt user in this way, then, under certain administrative arrangements, a credit can be obtained by the repairer or builder from the wholesale supplier of the goods (but not from the Commissioner).

Under the new law, goods used in the repair of goods or in the construction of property will be treated as applied to own use by the repairer or builder. The new law will not generally allow a person to obtain a direct credit from the Commissioner solely on the ground that the person could have quoted an exemption declaration but did not. The credit grounds under the new law will be widened to allow an unregistered repairer or builder who applies tax-paid goods to own use in the circumstances described above, to obtain a credit directly from the Commissioner."















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