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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA
SENATE

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)

AMENDMENT BILL (NO.2) 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
representing the Treasurer,
Senator the Hon. Peter Walsh)

This memorandum takes account of an amendment made
by the House of Representatives to the Bill as
introduced.

GENERAL OUTLINE

This Bill will amend the Sales Tax (Exemptions and Classifications) Act 1935 -

- . to exempt from sales tax certain goods if all the paper in the goods is made wholly from recycled paper (Environment Statement of 20 July 1989);
- . to extend sales tax exemption to a wider range of goods that are for use by a sub-contractor in carrying out activities of a manufacturing nature (proposal announced in 1989-90 Budget and on 31 October 1989);
- . to increase the small manufacturer exemption thresholds (1989-90 Budget announcement);
- . to reduce from 95 per cent to 90 per cent the minimum milk content requirement flavoured milk drinks must meet in order to be taxed at the concessional rate of 10 per cent (1989-90 Budget announcement).

FINANCIAL IMPACT

The revenue effect of the amendment to exempt certain paper products wholly made of recycled paper is estimated to be less than \$0.5 million in a full year.

The cost to revenue of extending sales tax exemption to a wider range of goods for use by sub-contractors in carrying out activities of a manufacturing nature is estimated to be \$3.5 million in 1989-90 and \$6 million in 1990-91.

The net cost to revenue of the proposed increases in the small manufacturer exemption thresholds is estimated to be \$8 million in 1989-90 and \$11 million in 1990-91.

The revenue cost of lowering the minimum milk content requirement for flavoured milk drinks is negligible.

MAIN FEATURES

The main features of this Bill are as follows:

Recycled paper

(Clause 3, paragraph (a))

The Bill will give effect to the announcement in the Prime Minister's Environment Statement of 20 July 1989 that certain paper products made wholly of recycled paper are to be exempt from sales tax.

The exemption, effective for transactions, acts or operations occurring on or after 5 October 1989 - the day following the date of introduction of the Bill - will apply to :

- (a) writing, drawing and printing paper that is blank or that incorporates printed guidelines or a trademark, logo, letterhead or similar matter;
- (b) envelopes;
- (c) toilet and facial tissue; and
- (d) paper bags for use by householders and retailers.

Exemption for certain goods for use by sub-contractors in carrying out activities of a manufacturing nature

(Clause 3, paragraph (d))

The Bill will give effect to the 1989-90 Budget proposal and the change announced on 31 October 1989 to exempt from sales tax goods for use by a sub-contractor exclusively in carrying out activities of a manufacturing nature for one or more other persons. The exemption is only to be available if each of those other persons would have obtained exemption for the goods under the existing "aids to manufacture" or "auxiliaries to aids to manufacture" provisions of the sales tax law had the person acquired and used the goods to carry out the contracted activities.

The proposed change will apply to taxable transactions, acts or operations that occur on or after 4 October 1989 - the date of introduction of this Bill.

Small manufacturers

(Clause 3, paragraphs (b) and (c))

Goods manufactured by small manufacturers are presently exempt from sales tax where:

- (a) the manufacturer's average annual sales are \$12,000 or less; or
- (b) the manufacturer's sales tax liability is \$250 or less per annum.

This Bill gives effect to a 1989-90 Budget proposal to increase the exemption thresholds to \$50,000 per annum average annual sales, and \$1,000 per annum sales tax liability. The amendments will take effect on 4 October 1989.

Flavoured milk drinks

(Clause 4)

Flavoured milk drinks are subject to sales tax at the concessional rate of 10 per cent when the drinks contain a minimum of 95 per cent milk. Drinks that contain less than 95 per cent milk are taxed at the general rate of 20 per cent.

The Bill will reduce the minimum milk content requirement for the application of the 10 per cent rate so

that flavoured milk drinks containing a minimum of 90 per cent of milk will be taxed at that rate. The change will operate from 16 August 1989.

More detailed explanations of the provisions of the Bill are contained in the following notes.

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)
AMENDMENT BILL (NO.2) 1989

Clause 1 : Short title etc.

Subclause 1(1) of this clause allows the amending Act to be cited as the Sales Tax (Exemptions and Classifications) Amendment Act (No.2) 1989.

Subclause 1(2) facilitates references to the Sales Tax (Exemptions and Classifications) Act 1935 that is referred to in this Bill as 'the Principal Act'.

Clause 2 : Commencement

By reason of subsection 5(1A) of the Acts Interpretation Act 1901, an Act comes into operation on the twenty-eighth day after Royal Assent unless otherwise specified. Except for the amendments referred to in subclauses 2(2) and (3), the amending Bill is to be taken - by subclause 2(1) - to have commenced on 16 August 1989.

By subclause 2(2) the exemption from sales tax for certain products made of recycled paper contained in paragraph (a) of clause 3 of the Bill is to commence on 5 October 1989.

Subclause 2(3) is to the effect that the amendments proposed by paragraphs (b), (c) and (d) of clause 3 of the amending Bill to the First Schedule of the Principal Act are to commence on 4 October 1989. Paragraphs (b), (c) and (d) of clause 3 propose amendments:

- . to increase the small manufacturer exemption thresholds (paragraphs (b) and (c)); and
- . to exempt certain goods for use by a sub-contractor exclusively in carrying out activities of a manufacturing nature on behalf of one or more other persons (paragraph (d)).

Clause 3 : First Schedule

Clause 3 of the Bill will amend the First Schedule to the Principal Act. Goods covered by the First Schedule are exempt from sales tax.

Paragraph (a) of clause 3 will insert a new item - item 60 - in the First Schedule to the Principal Act. New item 60 will exempt the following goods if all the paper in the goods has been manufactured from recycled paper:

- (a) writing, drawing or printing paper that is blank or ruled and incorporates a small amount of printing such as a printed trade mark, logo, letterhead or similar matter but does not include photographic paper (paragraph (a));
- (b) pads or books of paper covered by paragraph (a), provided the covers of the pads or books are manufactured from recycled paper and are also blank or blank apart from a small amount of printing; (paragraph (b));
- (c) paper used for accounting purposes (paragraph (c));
- (d) envelopes, including envelopes that incorporate a fastener or address window not made of recycled paper, that are blank or are blank apart from a small amount of printing such as a return address, postage paid mark, trade mark, logo or similar matter (paragraph (d));
- (e) toilet and facial tissue (paragraphs (e) and (f));
- (f) paper bags used by householders and retailers (paragraph (g)).

By the operation of subclause 2(2) and clause 5 of the Bill, new exemption item 60 will apply to goods that pass the taxing point on and after 5 October 1989.

Paragraph (b) of clause 3 of the Bill will amend item 100 in the First Schedule to the Principal Act. Item 100 exempts the products of small manufacturers (including people engaged in craft work) where the average annual value of sales of all goods sold by the manufacturer does not exceed \$12,000. The exemption also applies to goods sold by a wholesaler where the manufacturer of the goods is entitled to exemption under item 100.

The amendment to be made by paragraph 3(b) will increase from \$12,000 to \$50,000 the maximum average annual value of sales a manufacturer can make and still be entitled to exemption under item 100.

Paragraph (c) of clause 3 of the Bill will amend item 103 in the First Schedule to the Principal Act. Exemption item 103 applies to products of a manufacturer if the sales tax liability that would otherwise be payable on all goods sold, treated as stock for sale by retail or applied to own use by the manufacturer would not exceed \$250 per annum. This exemption is designed to remove the need for larger businesses to account for sales tax when their main activities are not liable for sales tax (e.g. because they are service providers, not manufacturers of goods) but which, incidentally to carrying on their main business, undertake small taxable manufacturing activities such as printing booklets for external use.

The amendment by paragraph 3(c) will increase the item 103 threshold from its present level of \$250 per annum to \$1,000 per annum.

Where goods sold by a manufacturer are exempt from sales tax under item 100 or item 103 in the First Schedule the manufacturer is not permitted to purchase inputs to the manufacture of the goods, such as raw materials and aids to manufacture, free of tax.

The amendments by paragraphs 3(b) and (c) of the Bill may apply, by the operation of subclause 2(3) and clause 5, to transactions, acts or operations effected or done in relation to goods on or after 4 October 1989.

Paragraph (d) of clause 3 of the Bill will amend the First Schedule to the Principal Act by inserting a new item 113F after item 113E. Under new item 113F, exemption will be available for goods that satisfy the two conditions set out in paragraphs (a) and (b) of the new item. The broad effect of the new item will be that a sub-contractor will be entitled to acquire free of sales tax goods for use in carrying out activities for one or more other persons where each of those persons, had they acquired and appropriately used the goods, would have been entitled to exemption for those goods under the existing "aids to manufacture" or "anxiliaries to aids to manufacture" provisions of the sales tax law.

The first condition, in paragraph (a) of item 113F, is that the goods are for use by a person (referred to as the 'sub-contractor') exclusively in carrying out activities (referred to as 'contracted activities') for one or more persons (referred to as the 'primary manufacturers').

Paragraph (b) of item 113F sets out the second condition which is to be satisfied for goods to qualify for exemption under the new item. The paragraph requires that, in the case of each of the persons for whom the sub-contractor operates, at least one of subparagraphs (b)(i), (ii) or (iii) applies.

Subparagraph (b)(i) of item 113F poses a hypothetical situation of the goods for use by the sub-contractor having been sold instead to the primary manufacturer for use exclusively in carrying out the contracted activities that are to be carried out by the sub-contractor on behalf of the primary manufacturer. If the goods would have been covered by item 113A, 113D or 113E in the First Schedule to the Principal Act upon the sale of the goods to the primary manufacturer in such a situation, then subparagraph (b)(i) of item 113F applies in the case of that primary manufacturer.

Item 113A in the First Schedule to the Principal Act covers, broadly speaking, aids to manufacture or auxiliaries to aids to manufacture that are acquired by an unregistered manufacturer for use by the manufacturer wholly or mainly in manufacturing tax-exempt goods.

Goods covered by item 113D are those acquired by a person to carry out certain activities on behalf of a manufacturer. The activities specified in the item are such that the goods would qualify as aids to manufacture or as auxiliaries to aids to manufacture if acquired and appropriately used by that manufacturer.

Item 113E covers, in broad terms, machinery, parts for machinery and materials for use exclusively or primarily in repairing or maintaining machinery covered by item 113A, 113B, 113C or 113D.

Subparagraph (b)(ii) of item 113F applies if the goods for use by the sub-contractor would have been covered by item 113B in the First Schedule to the Principal Act -

- . had the goods been manufactured by the primary manufacturer for whom the sub-contractor operates (sub-subparagraph (b)(ii)(A)); and
- . had the goods been applied by that primary manufacturer to her or his own use in carrying out the contracted activities that are to be carried out by the sub-contractor on behalf of the primary manufacturer (sub-subparagraph (b)(ii)(B)).

Item 113B covers goods (other than lubricants) that are manufactured by any person and applied to that person's own use as aids to manufacture or as auxiliaries to aids to manufacture.

Subparagraph (b)(iii) of item 113F poses a third hypothetical situation. The subparagraph applies where the goods for use by the sub-contractor - had they been applied by the primary manufacturer to her or his own use in carrying out the contracted activities that are to be carried out by the sub-contractor for the primary manufacturer - would have been covered by item 113C in the First Schedule to the Principal Act.

Item 113C covers goods (other than lubricants) that a person who is registered for sales tax purposes applies to her or his own use as aids to manufacture or as auxiliaries to aids to manufacture.

Clause 4 : Third Schedule

Clause 4 of the Bill will amend item 4A in the Third Schedule to the Principal Act. Goods covered by the Third Schedule are taxed at the concessional rate of 10 per cent.

Item 4A in the Third Schedule applies to flavoured milk drinks that contain a minimum of 95 per cent milk. Flavoured milk drinks that contain less than 95 per cent milk are taxed at the general rate of 20 per cent.

This amendment will reduce the minimum milk content requirement for the application of the Third Schedule to 90 per cent.

By the application of clauses 2 and 5 of the Bill the amendment will apply to goods that pass the taxing point on or after 16 August 1989.

Clause 5 : Application of Amendments

By clause 5 of the Bill the amendments made by the Bill will apply to transactions, acts and operations effected or done in relation to goods after the commencement of each amendment:

- . the amendments made by paragraphs (b), (c) and (d) of clause 3 to the First Schedule to the Principal Act (small manufacturers and sub-contractors) will commence on 4 October 1989;
- . the amendment made by paragraph (a) of clause 3 (recycled paper products) to the First Schedule will commence on 5 October 1989; and
- . the amendment made by clause 4 to item 4A in the Third Schedule (flavoured milk) commences on 16 August 1989.