Sales Tax Laws (Computer Programs) Amendment Bill 1989

Date Introduced: 31 May 1989
House: House of Representatives
Presented by: Hon. Peter Morris, M.P., Minister for Industrial Relations

Digest of Bill

Purpose

Reduce the amount of sales tax payable on goods containing certain computer programs and to provide that obligations imposed by amendments to sales tax legislation will not have to be met before the 28th day after Royal Assent.

Background

Sales tax is a wholesale sales tax on goods. Sales tax is imposed on goods manufactured for use in Australia, and goods, whether new or used, imported into Australia for use or consumption here. Sales tax is imposed only on goods. This usually occurs when the goods are sold by a manufacturer or a wholesaler to a retailer. Tax on sales of goods is levied on the price charged by a wholesaler to a retailer (i.e. the wholesale price). Where there is no wholesale price, e.g. where a manufacturer sells directly to the consumer, tax is payable on an amount equal to the wholesale price of those goods. The rate of tax is 10 per cent, 20 per cent or 30 percent depending on the classification of the good.

At present, computer programs are subject only to sales tax, if contained in goods (e.g. disks and tapes). The Sales Tax Amendment Bill 1988 proposed a number of changes to sales tax law covering transactions of computer software. The main changes provided by the amendments were the exemption from sales tax of single user programs (i.e. customised software) and the taxation of multiple user programs (i.e. packaged software) that were delivered electronically. On 22 December 1988 the Treasurer announced that the proposed amendments were to be withdrawn. The withdrawal of the legislation followed software industry lobbying and arguments that the measures did not reflect what the industry had been led to believe from the 1988 Budget announcements. Specifically, the industry claimed that under the proposed legislation it would be difficult to determine accurately what portion of a program is customised or non-customised.¹

In addition to the withdrawal of the proposed 1988 amendments, the Treasurer announced that from 23 December 1988 all computer software would be exempt from sales tax. However, the inputs to the production of software will remain subject to sales tax. These include computer hardware, discs, tapes and other materials used in producing software. Firmware, which includes the basic instructions in...
hardware (such as microchips containing programs) also will not be exempt from sales tax and will be taxable at the same rate as the equipment of which it is a part. Where sales tax has already been paid on software under the 1988 proposed amendments, refunds will be given by the Taxation Office.2

Main Provisions

The Bill, except for Parts 12, 13 and 14, will have effect from 23 December 1988. Parts 12, 13 and 14 will have effect from 1 June 1989 (clause 2).

Clauses 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23 will amend the Sales Tax Assessment Acts (Nos. 1 – 10) to reduce the sale value (the amount on which sales tax is payable) of goods containing computer programs by the amount that is attributable to the computer program and any other item exempt from sales tax under item 51 of the First Schedule of the Sales Tax (Exemptions and Classifications) Act 1935 (which exempts instruction manuals and other printed matter). The reductions will not apply where programs are contained solely in microchips.

Clause 25 provides that the Bill or any future sales tax Bills will not result in a person being guilty of an offence or being liable to pay additional tax as a penalty for not meeting their obligation to pay sales tax before the 28th day after the day on which a Bill receives Royal Assent.

The Schedule will amend the provisions of the Sales Tax Acts which deal with the sales value of goods containing programs. Where such goods are sold to a registered person who has provided their certificate number, the lower wholesale licence fee will be used. In other situations the value of the licence fee will still be used.

References


For further information, if required, contact the Economics and Commerce Group.

15 June 1989

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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