Sales Tax Laws Amendment Bill 1988

Date Introduced: 3 November 1988
House: House of Representatives
Presented by: Hon. Peter Morris, M.P., Minister for Industrial Relations

Digest of Bill

Purpose
To extend sales tax to computer programs, and parts of computer programs, transferred within Australia. The Bill also will remove the sales tax on certain transfers of computer programs to a single user.

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 not imposed on services which do not result in the manufacture of goods; sales of real property, intangible property, second-hand goods that have been used in Australia; and goods purchased for export; and goods specifically exempted by the legislation.

Sales tax is imposed once only on goods. This usually occurs when the goods are sold by a manufacturer or a wholesaler to a retailer. Liability can also arise where goods are leased, imported by a consumer for private use, given away for promotional purposes, used as samples, imported by retailers for sale, or transferred by a manufacturer to stock for retail sale. Tax is also payable if manufacturers use any of their own taxable products.

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 will be 10 per cent, 20 per cent or 30 per cent, depending on the classification of the good.

This is one of four Bills that will amend the sales tax law to give effect to measures announced in the 1988–89 Budget. The measures to be introduced resulted from a review of the application of sales tax law to computer programs/software. At present, computer programs are only subject to sales tax, if contained in goods (e.g. disks and tapes), and are imported into, or sold in, Australia. The package of four Bills will extend sales tax to the value of software developed for two or more users (i.e. packaged software); to packaged software transferred electronically; and will remove sales tax liability for computer software developed for a single user (i.e. customised software). Electronic access to software, such as the use of automatic bank teller machines, will not be affected.
Main Provisions

The amendments will operate from 4 November 1988 (clause 2).

Part II (clauses 3 – 7) will amend the Sales Tax Assessment Act (No. 1) 1930 (the Principal Act).

Clause 4 will extend the definition of computer program to include a part of a program. This will make sales tax payable on parts of computer programs as well as on complete programs.

Clause 5 will insert a new section 3D into the Principal Act. Where a computer program is transferred, within Australia, from one person to another, other than in a carrying medium such as a tape or disk, the transfer will be deemed to be the manufacture of the goods by the transferor and the sale of goods by the transferor to the transferee. As such, these transfers will be subject to sales tax, which will be payable by the transferor.

Clause 7 will insert a new section 18C into the Principal Act. Programs developed for a single user/client will, in certain circumstances, be exempt from sales tax. To be exempt, a single user program (customised software) can only contain material developed under a contract by the programmer for the sole use of one client. However, a custom program will be subject to sales tax where the custom program contains multiple user material, the value of which exceeds 20 per cent of the custom program value.

Clause 8 will amend the Sales Tax Assessment Acts Nos. 2 – 7, as set out in the Schedule, to include, where relevant, references to proposed section 18C.

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

23 November 1988

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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