

SALES TAX ASSESSMENT (No. 5).

No. 45 of 1963.

An Act to amend the *Sales Tax Assessment Act*
(No. 5) 1930–1953.

[Assented to 20th September, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Sales Tax Assessment Act* (No. 5) 1963. Short title and citation.

(2.) The *Sales Tax Assessment Act* (No. 5) 1930–1953* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Sales Tax Assessment Act* (No. 5) 1930–1963.

2.—(1.) Subject to this section, this Act shall be deemed to have come into operation on the fourteenth day of August, One thousand nine hundred and sixty-three. Commencement.

(2.) Section seven of this Act shall come into operation on the day on which the *Customs Act* 1963 receives the Royal Assent.

(3.) Section eight of this Act shall be deemed to have come into operation on the first day of January, One thousand nine hundred and sixty-three.

3. Section two of the Principal Act is amended by omitting the words— Partia.

“ Part VI.—Miscellaneous.”.

4. Section two A of the Principal Act is repealed and the following section inserted in its stead:—

“ 2A. In this Act, unless the contrary intention appears— Definitions.

‘ a Collector ’ means the Collector of Customs or any person doing duty under the Commonwealth in the matter in relation to which the expression is used;

‘ the Collector of Customs ’, in relation to goods imported into Australia, means the Collector of Customs or

* Act No. 33, 1930, as amended by No. 67, 1930; No. 33, 1931; Nos. 43 and 64, 1932; Nos. 17, 25 and 51, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 26, 1939; and No. 71, 1953.

other principal officer of Customs for the State or Territory of the Commonwealth into which the goods are imported;

‘the Comptroller’ means the Comptroller-General of Customs.”.

Sale value of
imported goods.

5. Section four of the Principal Act is amended—

- (a) by omitting the second proviso to sub-section (2.); and
- (b) by adding at the end thereof the following sub-sections:—

“(3.) Notwithstanding the preceding provisions of this section, where goods that have been exported from Australia for repair after having been imported into Australia and entered for home consumption under the *Customs Act* 1901, or under that Act as amended, are subsequently re-imported into Australia, the sale value of the goods upon re-importation is an amount equal to—

- (a) where duty of Customs is payable on the goods according to the value of the repairs—the sum of the amount of that duty and the amount of the value of the repairs ascertained for the purpose of calculating the amount of that duty; or

- (b) in any other case—the amount at which, in the opinion of the Commissioner, the repairs would, if duty of Customs were payable on the goods according to the value of the repairs, be valued, for the purpose of calculating the amount of that duty.

“(4.) The last preceding sub-section does not apply in relation to goods in respect of which, by reason of section six A or six B of this Act, sales tax was not payable at the time of the original entry for home consumption and had not become payable before they were exported from Australia for repair.”.

Delivery of
goods upon
giving of
security or
undertaking
for payment
of tax.

6. Section six A of the Principal Act is amended by omitting from paragraph (b) of sub-section (3.) the words “Minister of State for Trade and Customs” and inserting in their stead the words “Minister of State for Customs and Excise”.

7. After section six A of the Principal Act the following section is inserted in Part II.:—

Delivery of
goods on the
giving of
a general
security or
undertaking
for payment
of tax.

“6B.—(1.) The regulations may provide that—

- (a) goods of a specified class;
- (b) goods imported by persons of a specified class;

(c) goods of a specified class imported by persons of a specified class; or

(d) goods imported for a specified purpose,
may, in accordance with this section, be brought into Australia on a temporary basis without payment of sales tax.

“(2.) The Comptroller may accept a security given by a person for the payment of, or an undertaking by a person to pay, any sales tax that may become payable on goods to which the security or undertaking relates, being goods in relation to which regulations under the last preceding sub-section apply, that may be imported after a particular date or during a particular period and, where the Comptroller has accepted such security or undertaking, a Collector may grant to a person who imports goods to which the security or undertaking relates permission to take delivery of those goods without payment of sales tax.

“(3.) Goods delivered under this section shall, for the purposes of this Act, be deemed to be entered on being so delivered.

“(4.) The regulations may prohibit a person to whom goods are delivered under this section from dealing with the goods in a manner, or in a manner other than a manner, specified in the regulations, or from so dealing with the goods except with the consent of the Comptroller.

“(5.) Sales tax is not payable in respect of goods delivered under this section unless—

(a) the goods have been dealt with in contravention of the regulations; or

(b) the goods are not exported within such period, not exceeding twelve months, after the date on which the goods were imported as is notified to the person who imported the goods by the Collector when he grants permission to take delivery of the goods, or within such further period as the Minister of State for Customs and Excise, or a person to whom that Minister has delegated powers under section one hundred and sixty-two A of the *Customs Act* 1901–1963, on the application of the person who imported the goods and of the person who gave the security or undertaking with respect to the goods, allows.

“(6.) Where security under this section is given by way of a payment of money or a deposit of an instrument transferable by delivery, the money shall not be repaid or the instrument shall not be returned, unless no sales tax is, or may become, payable in respect of any goods to which the security relates that have been imported.

“(7.) Where goods have been dealt with in contravention of the regulations or goods are not exported from Australia within the period notified under paragraph (b) of sub-section (5.) of this section or within such further period as is allowed under that paragraph, a security in respect of the goods may be enforced according to its tenor or, where an undertaking to pay the amount of the sales tax on the goods has been given, that amount may be recovered at any time in a court of competent jurisdiction by proceedings in the name of the Comptroller or of the Collector of Customs.

“(8.) The provisions of the *Customs Act* 1901–1963 (including regulations made under that Act) relating to securities apply in relation to a security under this section as if that security were a Customs security required to be given under that Act.”.

8. After section eleven A of the Principal Act the following section is inserted in Part IV.:—

Refunds of tax
on rejected
goods.

“ 11B. Where—

- (a) sales tax has been paid in respect of goods that have been imported in pursuance of a contract of sale;
- (b) the importer refuses to accept the goods under the contract on the ground that they are not in accordance with the terms of the contract;
- (c) the goods are destroyed under the supervision of a Collector; and
- (d) the Commissioner is satisfied—
 - (i) where duty of Customs has been paid or is payable on the goods—that that duty has been, or will be, refunded or remitted by reason of the destruction of the goods; or
 - (ii) where no duty of Customs was payable upon the importation of the goods—that, if duty of Customs had been paid on the importation of the goods, that duty would have been refunded by reason of the destruction of the goods,

and that the sales tax paid in respect of the goods has not been passed on by the taxpayer to some other person or, if passed on to some other person, has been refunded to that person,

the Commissioner may refund the sales tax so paid.”.

Application of
provisions of
Sales Tax
Assessment Act
(No. 1).

9. Section twelve of the Principal Act is amended by omitting paragraph (a) of sub-section (1.).

Repeal of
Part VI.

10. Part VI. of the Principal Act is repealed.