

2.—(1.) Section nine AA of the Principal Act is amended—

- (a) by omitting from paragraph (f) of sub-section (1.) the words “on and after” and inserting in their stead the words “during the period commencing on”;
- (b) by omitting from that paragraph the words “up to” and inserting in their stead the words “ending on”; and
- (c) by omitting from that paragraph the words “in that financial year” and inserting in their stead the words “during that period”.

Calculation
of payments
to be made by
the Treasurer to
the Fund.

(2.) This section shall be deemed to have commenced on the date of commencement of the *National Debt Sinking Fund Act 1930*.

SALES TAX PROCEDURE.

No. 53 of 1934.

An Act to provide Procedure in relation to the Collection and Recovery of Sales Tax and for other purposes.

[Assented to 15th December, 1934.]

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

1. This Act may be cited as the *Sales Tax Procedure Act 1934*. Short title.
2. This Act shall be deemed to have commenced on the eighteenth day of August, One thousand nine hundred and thirty. Commencement.
3. In this Act unless the contrary intention appears— Definitions.

“Agent” includes every person who in Australia, for or on behalf of any person out of Australia (in this section called ‘the principal’), holds or has the management or control of the business of his principal, and every person declared by the Commissioner to be an agent or the sole agent for any person for the purposes of this Act;

“Company” includes all bodies or associations, corporate or unincorporate, but does not include partnerships;

“Goods” includes commodities;

“Person” includes a company;

“Sales tax” or “tax” means the tax imposed and as in force from time to time under any one or more of the following Acts:—

the *Sales Tax Act (No. 1) 1930*,
 the *Sales Tax Act (No. 2) 1930*,
 the *Sales Tax Act (No. 3) 1930*,
 the *Sales Tax Act (No. 4) 1930*,
 the *Sales Tax Act (No. 5) 1930*,
 the *Sales Tax Act (No. 6) 1930*,
 the *Sales Tax Act (No. 7) 1930*,
 the *Sales Tax Act (No. 8) 1930*, and
 the *Sales Tax Act (No. 9) 1930*,

or under any one or more of those Acts as amended from time to time, and, in respect of sales tax payable in respect of transactions, acts or operations which took place, or in respect of goods which were imported, on or after the twenty-sixth day of October, One thousand nine hundred and thirty-three, means that tax as varied by section nineteen of the *Financial Relief Act 1933* or by any subsequent Act;

“Sales Tax Assessment Act” means any of the following Acts:—

the *Sales Tax Assessment Act (No. 1) 1930*,
 the *Sales Tax Assessment Act (No. 2) 1930*,
 the *Sales Tax Assessment Act (No. 3) 1930*,
 the *Sales Tax Assessment Act (No. 4) 1930*,
 the *Sales Tax Assessment Act (No. 5) 1930*,
 the *Sales Tax Assessment Act (No. 6) 1930*,
 the *Sales Tax Assessment Act (No. 7) 1930*,
 the *Sales Tax Assessment Act (No. 8) 1930*, and
 the *Sales Tax Assessment Act (No. 9) 1930*,

and includes any of those Acts as amended from time to time;

“the Commissioner” means the Commissioner of Taxation;

“the Second Commissioner” means the Second Commissioner of Taxation;

“the Regulations” means the Regulations made under this Act;

“Trustee”, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(b) every person having or taking upon himself the administration or control of goods affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of the goods of a person under any legal or other disability;

4.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to the Second Commissioner, a Deputy Commissioner of Taxation or other person all or any of his powers or functions under this Act or the Regulations (except this power of delegation) so that the delegated powers or functions may be exercised by the Second Commissioner, the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

Delegation
by the
Commissioner.

(2.) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3.) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation.

5.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, any person who is registered or required to be registered under any such Act and who, during any month—

Returns.

- (a) sells goods ;
- (b) being a manufacturer of goods, treats those goods as stock for sale by him by retail ;
- (c) applies goods to his own use ; or
- (d) leases goods to a lessee,

shall, within twenty-one days after the close of that month, furnish to the Commissioner of Taxation, for the purposes of the ascertainment of the liability of that person to sales tax in respect of those goods, a return of those goods.

(2.) Every return furnished under the last preceding sub-section shall be in the prescribed form and shall set forth such information as is prescribed or, where no such form is prescribed, shall be in such form as is authorized by the Commissioner, and, in either case, shall set forth such information as is required for the due completion of that form.

(3.) Without restricting the generality of the foregoing provisions of this section, forms of returns may, for the purposes of those provisions, be prescribed or authorized which will permit, in cases provided for in the forms, a person required to furnish a return under this section in respect of goods sold by him or applied by him to his own use, to furnish a return without specifying which of the Sales Tax Assessment Acts applies to those goods.

(4.) Any return furnished before the date upon which this Act receives the Royal Assent, by any person specified in sub-section (1.) of this section of any goods so specified, and made or

purporting to be made under any one or more of the Sales Tax Assessment Acts, shall be deemed to be a return furnished under this section.

(5.) Any return furnished under this section by any person in respect of any goods shall, subject to this Act, be in lieu of any return required to be furnished by him under any Sales Tax Assessment Act in respect of those goods.

Further Returns.

6. In addition to any return required to be furnished under the last preceding section the Commissioner may, by notice in writing, call upon any person to furnish to him, within the time specified in the notice—

- (a) such return, or such further or fuller return, as the Commissioner requires, whether in that person's own behalf or as an agent or trustee; or
- (b) a return which shall be a return under, subject to the provisions of, and in the form prescribed under, any Sales Tax Assessment Act.

Offences in relation to returns.

7.—(1.) Any person who—

- (a) fails or neglects duly to furnish or lodge any return required in accordance with either of the last two preceding sections, or to furnish information or to comply with any requirement of the Commissioner as and when required by this Act or the Regulations, or by the Commissioner; or
- (b) without just cause shown by him, refuses or neglects to attend and give evidence or to answer truly and fully any questions put to him, or to produce any books or papers when so required, in pursuance of this Act or the Regulations, by the Commissioner or by any officer duly authorized by him; or
- (c) makes or delivers a return which is false in any particular or makes any false answer whether verbally or in writing; or
- (d) contravenes any provision of this Act for the contravention of which no penalty is expressly provided,

shall be guilty of an offence.

Penalty: Not less than Two pounds nor more than One hundred pounds.

(2.) Any person who, after conviction for an offence against this section in respect of failure, refusal or neglect to comply with any requirement of, or made in pursuance of, this Act or the Regulations, continues to fail, refuse or neglect to comply with that requirement, shall be guilty of an offence.

Penalty: Not less than Fifty pounds nor more than Five hundred pounds.

(3.) In any prosecution, for an offence against paragraph (c) of sub-section (1.) of this section, of any person who has not previously been convicted of an offence against this Act or against any Sales Tax Assessment Act, it shall be a defence if the defendant proves—

- (a) that the return or answer to which the prosecution relates was prepared or made by him personally; and
- (b) that the false particulars were given or (as the case may be) the false statement was made through ignorance or inadvertence.

8.—(1.) Notwithstanding anything contained in the last preceding section, any person who—

Penalty in certain cases.

- (a) fails or neglects duly to furnish any return or information as and when required by this Act or the Regulations or by the Commissioner;
- (b) fails to include, in accordance with the requirements of this Act and the Regulations, any particulars of goods in any return; or
- (c) understates in any return, in respect of any goods, the amount specified, in paragraph (a), (b) or (c) (as the case may be) of sub-section (1.) of section eleven of this Act, in respect of those goods,

shall, if a taxpayer to whom paragraph (a) of this sub-section applies, be liable to pay additional tax at the rate of ten per centum per annum upon the amount of tax assessable to him, under any one or more of the Sales Tax Assessment Acts (such percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which the assessment is made, whichever first happens), or the sum of One pound, whichever is the greater, and shall, if a taxpayer to whom paragraph (b) or (c) of this sub-section applies, be liable to pay by way of additional tax the amount of One pound or double the amount of the difference between the tax properly payable and the tax payable upon the basis of the return lodged, whichever is the greater:

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(2.) If action is taken to recover the penalty provided by the last preceding section, or by section eleven of this Act, the additional tax payable under this section shall not be charged in respect of the failure, neglect or understatement in respect of which that action is taken.

9. If any person, in any declaration made under, or authorized or prescribed by, this Act or the Regulations, knowingly or wilfully declares to any matter or thing which is false or untrue, he shall be

False declarations.

deemed to be guilty of wilful and corrupt perjury and shall upon conviction be liable to imprisonment for a period not exceeding four years.

Recovery of Tax.

10.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, where, in any proceedings for the recovery of sales tax, the defendant denies liability, it shall not be necessary for the plaintiff to allege or prove under which of the Sales Tax Assessment Acts the sales tax became payable, and, upon the production of a certificate purporting to be signed by the Commissioner, the Second Commissioner or a Deputy Commissioner of Taxation and stating that an amount of sales tax, not exceeding the amount claimed, is due by the defendant in respect of goods and that those goods have been either—

- (a) sold by the defendant :
- (b) manufactured by the defendant and treated by him as stock for sale by retail ;
- (c) applied by the defendant to his own use ; or
- (d) leased by the defendant to a lessee,

the plaintiff shall be entitled to judgment for the amount of sales tax stated in the certificate except in so far as the defendant proves that the sales tax so stated or any portion thereof is not payable.

(2.) For the purposes of this section “sales tax” includes any additional tax for which the defendant is liable under this Act or under any Sales Tax Assessment Act.

Offences in respect of avoidance of tax.

11.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, if any person—

- (a) has sold goods in such circumstances that sales tax is payable by him under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were sold ;
- (b) has sold by retail goods which he has purchased in such circumstances that sales tax is payable by him under some one or other of the Sales Tax Assessment Acts, upon the amount which would be the fair market value of those goods if sold by him by wholesale ; or
- (c) has applied to his own use goods which he has purchased in such circumstances that sales tax is payable by him under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were so purchased,

and that person—

- (d) with intent to defraud understates in any return, whether under this Act or under any Sales Tax Assessment Act, the amount for which those goods were sold, the amount which would be the fair market value of those goods if sold by him by wholesale, or the amount for which those goods were purchased by him, as the case may be ; or

(e) by some wilful act, default or neglect, or by some fraud, art or contrivance, avoids or attempts to avoid sales tax in respect of goods so sold, sold by retail or applied to his own use, as the case may be,
 he shall be guilty of an offence.

Penalty :

- (i) for any offence to which paragraph (d) of this sub-section applies—not less than Fifty pounds and the amount of sales tax which would have been avoided, if the amount stated in the return had been accepted as the correct amount, nor more than Five hundred pounds and treble the amount of sales tax which would have been so avoided ; and
- (ii) for any offence to which paragraph (e) of this sub-section applies—not less than Fifty pounds and the amount of sales tax avoided or attempted to be avoided, nor more than Five hundred pounds and treble the amount of sales tax avoided or attempted to be avoided.

(2.) In any proceedings for an offence against this section it shall not be necessary to allege or prove which of the Sales Tax Assessment Acts applies in respect of the goods in relation to which the offence was committed.

(3.) Without derogating from the generality of the provisions for the facilitation of proof contained in any other Act, a certificate purporting to be signed by the Commissioner, the Second Commissioner or a Deputy Commissioner of Taxation and stating—

(a) that a person named in the certificate—

- (i) has sold goods in such circumstances that sales tax is payable by that person, under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were sold ;
- (ii) has sold by retail goods which he has purchased in such circumstances that sales tax is payable by that person, under some one or other of the Sales Tax Assessment Acts, upon the amount which would be the fair market value of those goods if sold by him by wholesale ; or
- (iii) has applied to his own use goods which he has purchased in such circumstances that sales tax is payable by that person, under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were so purchased ; or

(b) the amount of sales tax avoided, attempted to be avoided or which would have been avoided if the amount stated in the return had been accepted as the correct amount, as the case may be,

shall, in any proceedings for an offence against this section, be *prima facie* evidence of the matters stated in the certificate.

Application of
Part IX. of
Sales Tax
Assessment Act
(No. 1) 1930-
1934.

Regulations.

12. The provisions of Part IX. of the *Sales Tax Assessment Act* (No. 1) 1930-1934 shall, *mutatis mutandis*, apply in relation to offences against this Act.

13. The Governor-General may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular—

- (a) authorizing the Commissioner to obtain information and evidence;
- (b) relating to the service of process in any proceedings for the recovery of tax;
- (c) for defining the liabilities of the executors and administrators of deceased persons in relation to sales tax payable by those persons during their lifetime;
- (d) for prescribing the times within which prosecutions for offences against this Act or the Regulations may be commenced;
- (e) relating to the liability under this Act of companies and of liquidators of companies and for defining the liability of any persons who, for the purposes of any Sales Tax Assessment Act, are the public officers of companies;
- (f) for defining the liabilities of agents and trustees under this Act;
- (g) for defining, in relation to the liabilities under this Act of persons who are resident out of Australia, the liabilities of persons who have the receipt, control or disposal of money belonging to persons so resident;
- (h) for prescribing matters relating to the giving of certificates under this Act and the acceptance of any such certificate as proof in legal proceedings;
- (i) for prescribing penalties for any breach of the Regulations; and
- (j) for requiring persons who execute or perform, or who have executed or performed, any power or duty under this Act to observe secrecy.

Saving.

14.—(1.) Nothing in this Act shall affect—

- (a) any judicial proceeding determined prior to the date upon which this Act receives the Royal Assent; or
- (b) any judicial proceedings instituted and pending on or before the twenty-ninth day of November, One thousand nine hundred and thirty-four,

and any proceedings so instituted and pending may be heard and determined as if this Act had not been passed.

(2.) Nothing in this Act shall, except where otherwise expressly provided, take away the remedies, or alter the liabilities, provided for in any Sales Tax Assessment Act.