

## NEW SALES TAX THREAT!

IN THE 1981 Budget the Federal Government proposed amendments to the Sales Tax Act which would have imposed a 2½ percent tax on books, magazines and newspapers. The LAA, the Australian Book Publishers Association, the Australian Booksellers Association and the National Book Council successfully mounted a \$40,000 campaign to have the legislation defeated. In March 1982, the amendments were rejected by the Senate. Now a new sales tax threat has emerged which will affect not only libraries who use computers but is likely also to resurrect the controversy of sales tax on books.

In April 1982 the Australian Taxation Office reviewed an interpretation of the Sales Tax Act and moved to collect a 17½ percent sales tax on computer software. Computer industry representatives held talks on 23 April with assistant deputy taxation commissioner, Frank Beaumont to clarify the issue. According to *Pacific Computer Weekly* no.367, Mr Beaumont warned that 'those software companies who do not have a written ruling from the Taxation Department stating their software is non-taxable are liable to three years' retrospective sales tax.'

This led to a flurry of lobbying activity by the Australian Software Houses Association and the Australian Computer Society. The main points of contention have been an inability by the Taxation Office to define what constitutes software and to define whether software is 'goods' or 'services'. As sales tax can only be applied to 'commodities' by definition of the Act, obviously the Taxation Office had decided that software constitutes 'goods' or 'commodities'. However, the Industrial Research and Development Grants Board does not regard software packages as 'goods' and has therefore consistently refused applications for R & D grants for the development of software.

On 7 May official Taxation Office guidelines were issued in which software was classified under one of three categories:

1. 'Software that conveys the results of consultancy work of specialist programmers who have been retained by the user'. (This is not taxable - sales tax is payable only on the medium, ie tape, disc, used to store the software.)
2. 'Standard and games software such as computer games, educational software and standard business programs generally supplied in the form of a cartridge or floppy disc and sold over the counter or supplied for a fee'. (This is taxable at 17½ percent except if the purchaser is a sales tax exempt organisation as defined in the Act, eg a State Library.)
3. 'Standard software that is substantially altered by a specialist programmer to meet the particular user's needs'. (Only the original program's sale is taxable at 17½ percent; customisations and modifications are not taxable even though they may increase the

value of the original.)

In a later revision of the guidelines the term 'programmes' has replaced 'software' in categories 1 and 3 and category 2 has been expanded to include 'standard business programmes such as general ledger or accounts receivable, household packages and so on'. Category 1 has been amplified by the following: 'The finished tape (sic) is produced incidentally in the course of providing professional services and is merely the media (sic) for transmission of ideas found in the programme'.

These definitions are obviously inadequate and have provoked some angry reactions from software industry representatives. Over the past 15 years in Australia 'standard software' has been available and has been sold. According to the Chairman of ASHA, Ian Dennis, during that time numerous companies have been advised verbally and in writing that software was not subject to sales tax. In *Australasian Computerworld*, 21 May 1982 he said 'The segregation of software into three components, one of which is primarily categorised by its uniqueness, one by its media and the other by undefined amount of changes made to it is going to produce a morass of unknowns'.

Other associated anomalies have been brought to light recently.

- a) Duplication of a program is deemed for sales tax purposes to be manufacture. However, recent rulings by the commissioner regarding the record industry have been that when the medium is supplied by the user, in some instances the recording is not manufacture.
- b) Equipment used primarily and principally in research and development of computer software is 'not for use ... directly in the manufacture of goods' and does not qualify for exemption of sales tax under the 'aids to manufacture' provisions. However, computer equipment used exclusively, or primarily and principally, and directly in the manufacture of goods marketed as standard software is not excluded from the definition of aids to manufacture therefore qualifies for exemption.
- c) There is complete authority for sales tax to be demanded up to three years in arrears, but no common law recourse for a wholesaler to claim sales tax not charged. The wholesaler is liable for the collection of the sales tax.

The ACS software industry committee has decided that software is a service and should therefore be exempt from sales tax. But it would also be ineligible for aids-to-manufacture tax rebates, research and development grants, export incentives, and other government assistance available to manufacturers.

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## The owners return to Lanyon



Mrs Pam Ray a historian from the National Library holds a pair of porcelain portraits which are to be returned to Lanyon, a historic homestead in the ACT. Mrs Ray has been conducting research into the homestead and has written a detailed history. The portraits are of Jane and Andrew Cunningham who were the owners of Lanyon in the 1850s. The portraits were in the possession of a grandson of the couple, who has returned them to Lanyon as a gift.

**A MEETING to discuss the draft constitution of the newly formed union called LIBRARY AND INFORMATION STAFF ASSOCIATION of New South Wales will be held on Tuesday 14 September at 6.00 pm at the Tom Mann Theatre, 136 Chalmers Street, Surry Hills (near Central Station and opposite the Ice Skating Rink).**

**All library staff in the private sector are urged to attend this crucial meeting. Copies of the draft constitution and the minutes of the inaugural meeting held on 4 August, are available from Judith Hill at the LAA office.**

**Judith Hill  
Industrial Officer**

**HAPPENINGS** *continued*

**SEPTEMBER 2-3** LAA Qld Branch CE Program **Workshop** Library automation' **Ground Floor Library, Capricornia AE, Rockhampton**. Speakers: Colin Cayless (Chief Librarian, QIT), Jim Douglas (Systems Analyst, Uni of Qld Library), Simon McMillan (Senior Librarian, Special Systems Projects, Uni of Qld Library). Contact: Cheryl Haughton (079) 27 6444.

**SEPTEMBER 3** LAA Qld Branch **Meeting** 'Selling the public library'. Speaker: Charles Robinson (Director, Baltimore County Library). More details later. Contact: Christine Crocker.

**SEPTEMBER 4** LAA Qld Branch **Meeting** 'Selling the public library' **Rockhampton Municipal Library**. Speaker: Charles Robinson (Director, Baltimore County Library). Contact: Cheryl Haughton (079) 26 7444.

**SEPTEMBER 21** Qld Online Users Group **Meeting** 'New developments in Dialog' 5.30 for 6pm **QIT Library**. Speaker: A Dialog training specialist. Contact: Glenda Smith (07) 377 2211.

**SEPTEMBER 20-24** Insearch Ltd/DIALOG **Seminars** DIALOG introductory, search strategy, system refresher, business, non-bibliographic information, Sci/Tech and biosciences' **Brisbane**. Contact: Jennifer Affleck (02) 264 6344.

**SEPTEMBER 22** LAA Qld Branch **General Meeting** 'Information brokerage in Queensland' 5.30pm (wine and cheese) address 6pm **Library, QIT**. Speakers: Winston Maika and Lee Tonkin (of AIS, Australian Information Services). Contact: Phil Finnimore (07) 223 2531.

**OCTOBER 4** LAA **CE Seminar** 'Managing people at work' **CAIA, Rockhampton**. Contact: Cheryl Haughton (079) 27 6444.

**OCTOBER 4-5** LAA National **CE Program** 'Managing people at work' **Capricornia Institute of Advanced Education, Bruce Highway, Rockhampton**. Fee: \$90 (\$65 to LAA members) includes morning, afternoon teas, lunches. Limited accommodation available at \$25 per day all inclusive. Enrolments close 24 September. Contact: Cheryl Haughton (079) 27 6865 and see paragraph elsewhere this issue.

**OCTOBER 6** LAA Qld Branch **General Meeting** 'Continuing education: joint venture or individual enterprise' 5.30pm (wine and cheese) 6pm address **Library, QIT**. Speaker: Merilyn Bryce (Continuing Education Officer, LAA). Contact: Phil Finnimore (07) 223 2531.

**OCTOBER 27** LAA Qld Branch **General Meeting** Susan Acutt, Executive Director of LAA, will speak about her first year in office. 5.30pm (wine and cheese) 6pm address **Library, QIT**. Contact: Phil Finnimore (07) 223 2531.

**OCTOBER 30** LAA Qld Branch and Cataloguers Section **Seminar** on ABN and on-line cataloguing 9am-5pm **QIT**. Speaker: Carmel McInerney (Chief Librarian, Bibliographic Control, ABN Office, National Library). Contact: Ann Lawson (07) 224 2433.

**NOVEMBER 22-23** ACI Computer Services **Orbit New and Advanced User Training Courses, Brisbane**. Contact: Harold Bulmer (07) 44 5232.

**NOVEMBER 23** LAA Qld Branch and QCOM **Joint Seminar** 'Word processing and information retrieval'. Venue to be advised. Contact: Phil Finnimore (07) 223 2531.

**NOVEMBER 23** Qld Online Users' Group **AGM** 5.30 for 6pm **QIT Library**. Contact: Glenda Smith (07) 377 2211.

**DECEMBER 9** LAA Qld Branch Council **Annual General Meeting**. Venue and speaker to be confirmed. Contact: Phil Finnimore (07) 223 2531.

**ACT**

**SEPTEMBER 2** LAA ACT Branch **Council Meeting**. 5.30pm **Readers Lounge, NLA**. Meetings will be held first Thursday of each month (except April), same time, same place as above. Dates of future meetings: 7 October, 4 November, 2 December (AGM). Contact: Janet Perfrement (062) 66 3572.

**SEPTEMBER 2-3** European Space Agency (ESA) - Information Retrieval Service (IRS) **demonstration** by Dr Eveline Onorato Sept 2 10am-12.30pm and 2pm-4.30pm Sept 3 9.30am-12.30pm and 2pm-4.30pm **CSIRO Division of Computing Research, Black Mountain**. Contact: Ms G. Watt (062) 43 3288 or Mr H.J. Zwillenberg (062) 81 6218.

**SEPTEMBER 2** European Space Agency (ESA)-Information Retrieval Service (IRS) **Session** 10am-12.30pm and 2pm-4.30pm **CSIRO Division of Computing Research, Black Mountain**. Contact: Jean Geue (062) 83 2304 or Hans Zwillenberg (062) 81 6218.

**SEPTEMBER 3** ESA/IRS **Session** 9.30am-12.30pm and 2pm-4.30pm Same venue as September 2 notice. Contact: Jean Geue (062) 83 2304 or Hans Zwillenberg (062) 81 6218.

**SEPTEMBER 9** LAA ACT Branch **Council meeting** 5.30pm **Readers Lounge, NLA**. Due to Adelaide Conference this has been changed from Thursday 2 September. Contact: Craig Grimison (062) 52 2111.

**SEPTEMBER 9** LAA Cataloguers Section ACT Group **Brief Business Meeting** 5.30pm. **Monthly Committee Meeting** 6pm 'Discussion on cataloguing problems' **Seminar Room, Menzies Bldg, ANU Library**. Meeting for 1982 will be held on the second Thursday of each month, same time, same place as above. Dates of future meetings: 14 October, 11 November, 9 December (AGM). Wine and cheese. All welcome. Contact: Philip Keane (062) 89 8177 or Helen Livingston (062) 52 2916.

**SEPTEMBER 13** LAA ACT Branch **Half day seminar** 'Freedom of information' 2pm **NLA**. Contact: Craig Grimison (062) 52 2111.

**SEPTEMBER 17-18** LAA ACT Branch **Seminar** 'Managing people at work' Contact: Andrew Bennett (062) 49 3439 or Rhona Denyer (062) 52 0750.

**SEPTEMBER 28** LAA ACT Branch **Meeting** 'The big sleep: professional practice'. Guest speaker: Margaret Trask. Contact: Craig Grimison (062) 52 2111.

**OCTOBER 7** LAA ACT Branch **Council Meeting** 5.30pm **Readers Lounge, NLA**. Contact: Craig Grimison (062) 52 2111.

**OCTOBER 15** Canberra TAFE Library Studies Consultative **Committee Workshop**. 'Horses for courses - job design for library technicians' Contact: Carolyn Cohn (062) 72 6351 or Dr Maxine Rochester, PO Box 61, Kingston ACT 2604.

**OCTOBER 21** LAA ACT Branch **Meeting** 'Manpower project'. Guest speaker: Barrie Mitcheson. Contact: Craig Grimison (062) 52 2111.

**OCTOBER 25-26** ACI Computer Services **Orbit New and Advanced User Training Courses, Canberra**. Contact: Steve Cartland (062) 47 0988.

**OCTOBER 27-28** ACI Computer Services **Ausinet New User Training Course, Canberra**. Contact: Steve Cartland (062) 47 0988.

**OCTOBER 29** NLA/ACI Computer Services 'ANB/APAIR/Australian Financial Review (AFR) **Training courses, Canberra**. One day course of ANB/APAIS/AFR will replace the ½ day course advertised earlier. Contact: Long Tjhia (062) 47 0988.

**NOVEMBER 4** LAA ACT Branch **Council Meeting** 5.30pm **Readers Lounge, NLA** Contact: Craig Grimison (062) 52 2111.

**Overseas**

**SEPTEMBER 6-10** IBBY **18th Biennial Conference** 'Story in the child's changing world' **Churchill College, Cambridge, England**. Conference fee: A\$350 (approx, inclc accom at Cambridge). Further details and booking form: IBBY Australia, PO Box 194, Edgecliff, NSW 2027.

**SEPTEMBER 6-17** Commonwealth Agricultural Bureaux **International Training Course** for people involved in agricultural information work. **Oxford College**. Cost: £525 (includes full board and travel expenses during course); £300 (non-residential attendees). Closing date for applications: 1 August. Contact: The Training Officer, Commonwealth Agricultural Bureaux, Farnham House, Farnham Royal, Slough S12 3BN, UK.

**SEPTEMBER 12-16** Hong Kong. **41st FID Congress**. Research workers from all over the world will have the opportunity of sharing their ideas. Further information: Peter Judge, c/o CSIRO, PO Box 225, Dickson ACT 2602.

**SEPTEMBER 21-24** 55th **Annual ASLIB Conference**. Contact: Aslib, 3 Belgrave Square, London SW1X 8PL, England.

**OCTOBER 21-29** American Association of School Librarianship. **Conference for Media Specialists, Information Scientists, Instructional Technologists and College Educators, Houston, Texas**. Theme 'AASL '82 A New Emphasis'. Contact: Ms Fyte, 50 E. Huron, Chicago, ILL 60611, USA.

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The Australian Software Houses Association claims that software is a product and as such should attract sales tax, but should be exempt in the same way as books, under the First Schedule of the Sales Tax (Exemptions and Classifications) Act. On the other hand, by being classified as a product it therefore is able to attract all the above-mentioned benefits and incentives.

In addition to the 17½ percent sales tax for sales within Australia, there is a 35 percent tariff on imported software.

All these factors add up to a potentially increasingly expensive product for the end-user if he is not a tax exempt body and they threaten the viability of some Australian software manufacturers especially if retrospective collection of the sales tax is imposed.

So, what is being done? The Australian Computer Services Association has suggested:

- slashing the price of software but making up the difference in a maintenance contract;
- offering membership of a software library to a purchaser of hardware;
- asking for the return of the media from which software is installed at the users' site.

A test case against the backdated sales tax has been mounted, using Melbourne firm DeForest Software. ASHA has begun a campaign to have the software industry recognised as a 'manufacturing industry'.

Victorian Senator John Siddons, has asked the Parliamentary counsel to draft a private member's bill to have software exempted

from sales tax. So far this has been stalled by an inability to closely define 'software'.

The implications for libraries of all this activity are not at first obvious as many libraries are tax exempt institutions and may not be directly affected if sales tax is imposed on retailed software from now on. However, if firms are to pay sales tax retrospectively the base cost of software packages is likely to have to be increased to cover the back taxes.

More insidious, though, is the potentially dangerous effect on the erstwhile successful fight to prevent books being subject to sales tax of the Chairman of ASHA's campaign tactics. He has requested in a letter to Senator Messner, that the Government decide on the applicability of the extension of the word 'goods' to include computer software. His argument includes the following points:

Computer software is not covered by any of the schedules because it has never been considered to be 'goods'.

If it is 'goods' then it is analogous to 'books' since it is primarily concerned with information transfer.

If it is 'goods' it should therefore be contained with the first schedule.

In the circumstances we therefore request: If software is goods, listing in the first schedule as exempt goods on the grounds of its importance not only as the legitimate heir to literature but also as a significant Australian industry in own right.

The attitude that software is 'the legitimate heir to literature' has been echoed by an editorial in *Australasian Computerworld*, 9 July, which claims that 'Reproducing copies of such software can hardly be distin-

guished from printing books as an industrial activity, as evidenced by the number of source programs reproduced in magazines'.

If the ASHA campaign is successful in linking the production of software with the production of 'goods' the software houses will gain, irrespective of whether or not software is classed as sales tax exempt goods. If it is not classed as sales tax exempt goods, the claimed connection with book publishing and the claimed genetic link with literature will provide a strong case for resurrecting the Government's intention to place a sales tax on books.

Another interesting effect could be in the area of software copyright - if the connection with books is established, it is likely that the thorny question of copyright of software will have to be examined in yet another light.

Whatever the result of the ASHA campaign the effect will be felt in all libraries and the campaign should be closely scrutinised by the LAA for its possible impact on libraries and on the book trade.

*Marita Hargreaves*  
Systems Librarian  
State Library of Tasmania

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