

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

---

SALES TAX (NOS. 1-9) AMENDMENT BILLS 1984

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT  
BILL 1984

---

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,  
the Hon. Paul Keating, M.P.)



## General Outline

### SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT BILL 1984

The Sales Tax (Exemptions and Classifications) Amendment Bill 1984 relates to that part of the sales tax law that, by means of Schedules to the Sales Tax (Exemptions and Classifications) Act 1935, (presently five in number, but proposed to be increased to six by the Bill), specifies which goods are exempt from sales tax, the circumstances of the exemption and classifies taxable goods into each of the tax-rate classes.

The main purposes of the Bill are -

- . to introduce into that Act a further Schedule - the Sixth Schedule - covering goods in respect of which sales tax is to be imposed at the new rate of 10% (Budget announcement);
- . to remove a number of anomalies and inconsistencies, and to make certain structural changes, in the classification of goods between the various Schedules to that Act (Budget announcement); and
- . to ensure that the exemption from sales tax available for goods for export and for certain imported or re-imported goods is not used for tax avoidance purposes (proposal announced on 7 May 1984).

### SALES TAX (NOS. 1 TO 9) AMENDMENT BILLS

The Sales Tax (Nos. 1 to 9) Amendment Bills will amend the Sales Tax Acts (Nos. 1 to 9) 1930 to impose tax, at the rate of 10%, upon the sale value of goods covered by the proposed Sixth Schedule to the Sales Tax (Exemptions and Classifications) Act.

#### Broad framework of sales tax law

The following broad framework of the sales tax law is provided to assist in an understanding of the changes being made.

Sales tax is a single stage tax levied on goods. In general, it is designed to fall at the wholesale level, but is payable by manufacturers and importers, as well as by wholesalers, the tax in each case being based on a sale value equivalent to the wholesale value of the goods. The overall intention is that goods that are produced in, or imported into, Australia for use or consumption here will bear the tax unless they are specifically exempted from it. Second-hand

goods that have been used in Australia are not ordinarily taxed, but imported goods that have been used overseas are normally taxable on a basis corresponding with that applicable to new goods.

The levy is not limited to sales. Where goods have not already borne tax it could, for example, fall on leases of those goods or on the application of those goods to a taxpayer's own use. It may also fall on importations of goods where they are not imported for sale by a wholesaler, e.g., where they are imported by retailers or consumers.

Manufacturers and wholesalers are required to register with the Taxation Office, unless they deal only in exempt goods. When registered they are issued with a certificate of registration and by quoting the certificate number when purchasing or importing goods they can acquire the goods free of tax. The system of quoting certificates has the effect of deferring payment of tax until the last wholesale sale.

Registered manufacturers and wholesale merchants are required to furnish monthly returns of their transactions to the Taxation Office. The tax is basically a self-assessment one and persons furnishing returns are required to calculate the tax payable on transactions for the month, and to forward payment of tax with each return. Importers are required to pay tax when clearing goods through Customs unless they are registered persons who quote their certificates for the goods.

Reflecting the fact that sales taxpayers are obliged to pay tax to the Taxation Office in this way they, in turn, when selling goods to a retailer or other customer, charge to the customer an amount equal to the tax that they are liable to remit when forwarding a sales tax return for the month. In that way the tax is passed on to the consumer.

The sales tax legislation is contained in a number of separate Acts. There are nine Sales Tax Acts that specify the rates at which tax is payable and each Sales Tax Act has a complementary Sales Tax Assessment Act providing the machinery for assessment, collection and administration of the tax imposed by the related Sales Tax Act. The subjects of taxation and the various Assessment Acts and Rates Acts are set out in the following table -

<u>Assessment Act and Rates Act</u>	<u>Subject of Taxation</u>
Sales Tax Assessment Act (No. 1) and Sales Tax Act (No. 1)	Goods manufactured in Australia and sold by the manufacturer or treated by the manufacturer as stock for sale by retail or applied to the manufacturer's own use.

Sales Tax Assessment Act (No. 2) and Sales Tax Act (No. 2)	Goods manufactured in Australia and sold by a purchaser from the manufacturer.
Sales Tax Assessment Act (No. 3) and Sales Tax Act (No. 3)	Goods manufactured in Australia and sold by a person not being either the manufacturer or a purchaser from the manufacturer.
Sales Tax Assessment Act (No. 4) and Sales Tax Act (No. 4)	Goods manufactured in Australia and applied to own use by a purchaser who quoted a sales tax certificate number for the goods.
Sales Tax Assessment Act (No. 5) and Sales Tax Act (No. 5)	Goods imported into Australia.
Sales Tax Assessment Act (No. 6) and Sales Tax Act (No. 6)	Goods imported into Australia and sold by the importer or applied to own use by the importer.
Sales Tax Assessment Act (No. 7) and Sales Tax Act (No. 7)	Goods imported into Australia and sold by a person other than the importer.
Sales Tax Assessment Act (No. 8) and Sales Tax Act (No. 8)	Goods imported into Australia and applied to own use by a purchaser who quoted a sales tax certificate number for the goods.
Sales Tax Assessment Act (No. 9) and Sales Tax Act (No. 9)	Goods in Australia dealt with by lease.

A further Act, the Sales Tax (Exemptions and Classifications) Act, contains a First Schedule that lists the classes of goods that are exempt from tax and specifies the circumstances in which that exemption applies. Further Schedules list the classes of goods that are taxable at specified rates. Goods not listed in any of the Schedules are taxable at what is called the general rate. Exemptions from tax set out in this Act extend to otherwise taxable goods that are for use by specified organizations or in particular industries or production processes.

Summary of changesGoods previously taxable at the general rate of 20% but which will now be taxable at a lower rate

- . Australian and imported alcoholic (where alcohol content exceeds 1.15%) wine produced otherwise than from grapes will now be taxable at 10%.  
(Schedule 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed Sixth Schedule).
- . Imported alcoholic grape wine and cider will now be taxable at 10%.  
(Schedule 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed Sixth Schedule).

Exempt goods which will now become taxable

- . Australian non-alcoholic or ultra-low alcoholic beer (not more than 1.15% by volume of alcohol) will now be taxable at 20%.  
(Schedule 2, clause 1 to the Sales Tax (Exemptions and Classifications) Amendment Bill).
- . Australian alcoholic cider will now be taxable at 10%.  
(Schedule 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed Sixth Schedule).
- . Australian alcoholic grape wine will now be taxable at 10%.  
(Schedule 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed Sixth Schedule).

Taxable goods which will now become exempt

- . Australian and imported wine, produced otherwise than from grapes, that does not exceed 1.15% by volume of alcohol (previously taxable at 20%).  
(Schedule 2, clause 1 to the Sales Tax (Exemptions and Classifications) Amendment Bill).
- . Imported wine for use in church services (previously taxable at 20%).  
(Schedule 2, clause 2 to the Sales Tax (Exemptions and Classifications) Amendment Bill).
- . Unexposed or undeveloped cinematograph film and negatives, positives and reversals produced on cinematograph film, for use in the production of motion picture films (previously taxable at 7.5%).  
(Schedule 4, clause 1 to the Sales Tax (Exemptions and Classifications) Amendment Bill).

In addition, item 116 of the First Schedule will be amended to overcome deficiencies which have led to sales tax avoidance practices which take advantage of the exemption from sales tax available for goods for export as well as for certain classes of imported or re-imported goods (Schedule 1 to the Sales Tax (Exemptions and Classifications) Amendment Bill).

#### Main Features

The main features of the Bills are as follows:

##### Taxation of non-excisable Australian beer

(Schedule 2 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed sub-item 36(1) of the First Schedule to the Sales Tax (Exemptions and Classifications) Act)

These provisions will have the effect of imposing sales tax, at the general rate of 20%, on Australian produced non-alcoholic and ultra-low alcoholic beer (that is, beer which does not contain more than 1.15% by volume of alcohol).

Currently, all Australian beer (including beer containing alcohol not exceeding 1.15%) is exempt from sales tax by virtue of sub-item 36(1) of the First Schedule to the Sales Tax (Exemptions and Classifications) Act. Australian beer containing more than 1.15% alcohol is, however, subject to excise. For Australian beer not exceeding 1.15% by volume of alcohol, the overall effect of the present law is that it is exempt both from sales tax and excise, whereas all imported beer is subject to sales tax at the general rate of 20% (as well as being subject to customs duty).

The amendments will apply to taxable transactions occurring at or after 8pm (A.E.S.T.) on 21 August 1984.

##### Taxation treatment of wine, cider and similar beverages

(Schedules 2 and 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed sub-items 36(2), (4) and (5) of the First Schedule and proposed Sixth Schedule to the Sales Tax (Exemptions and Classifications) Act- and clause 3 of the Sales Tax (Nos. 1 to 9) Amendment Bills)

These provisions will amend the sales tax law -

- . to impose sales tax, at the new rate of 10%, on Australian and imported alcoholic (grape) wines, non-grape wines and ciders; and
- . to exempt Australian and imported non-alcoholic non-grape wine from sales tax.

For the purposes of distinguishing between alcoholic and non-alcoholic beverages, an alcoholic beverage will be specified as one which contains more than 1.15% by volume of alcohol. Wine and other fermented beverages which

contain not more than 1.15% by volume of alcohol are to be treated as non-alcoholic beverages. "Non-grape wine" is an expression used to describe beverages similar to wine, but made from other food sources such as fruit (other than grapes), vegetables, herbage, cereals or honey. Non-grape wines include mead, perry and sake and other similar fermented beverages, such as "fruit wine", but beer, spirits (other than fortifying spirits), liqueurs and spirituous liquors are not included.

The current sales tax treatment of (grape) wine, non-grape wine and cider, as well as the proposed sales tax treatment of those beverages, is summarised below:

	current	proposed
(Grape) wine (Australian)		
- alcoholic	0	10
- non-alcoholic	0	0
(Grape) wine (imported)		
- alcoholic	20	10
- non-alcoholic	20	20
Non-grape wine (Australian)		
- alcoholic	20	10
- non-alcoholic	20	0
Non-grape wine (imported)		
- alcoholic	20	10
- non-alcoholic	20	0
Cider (Australian)		
- alcoholic	0	10
- non-alcoholic	0	0
Cider (imported)		
- alcoholic	20	10
- non-alcoholic	20	20

There will be an over-riding conditional exemption from sales tax for wine used in church services.

The amendments will apply to taxable transactions occurring at or after 8pm (A.E.S.T.) on 21 August 1984.

Imported Australian goods and re-imported goods  
(Schedule 1 to the Sales Tax (Exemptions and Classifications) Amendment Bill)

Item 116 of the First Schedule to the Sales Tax (Exemptions and Classifications) Act currently exempts from sales tax certain goods which are also free from customs duty under complementary provisions in the Customs Tariff (items 29 and 33 in Part I of Schedule 4 to the Customs Tariff).

Item 116 was inserted to achieve two principal objectives, namely -

- . to ensure that goods, which would have been exempt from sales tax if they had gone into use or consumption in Australia, retained this exemption if they were first exported from Australia and then were imported or re-imported into Australia (goods to be exported from Australia are exempt from sales tax); and
- . to ensure that goods which were taxable, and which had borne sales tax in Australia, would not again become liable to tax upon their importation or re-importation.

Item 116 has proved to be expressed more widely than is strictly necessary to achieve these objectives and it has given rise to schemes to avoid payment of sales tax on otherwise taxable goods - such as furs, jewellery, boats and electronic equipment which are generally subject to high rates of tax - by first exporting the goods before they go into use and consumption and then importing or re-importing them.

Item 116 is to be amended to restrict its application to that originally intended. The amendment will apply with effect to the importation or re-importation of goods that occurred after 7 May 1984, the date on which the Government announced it would act to counter arrangements exploiting item 116.

Cinematograph film, etc.

(Schedule 4 to the Sales Tax (Exemptions and Classifications) Amendment Bill - proposed item 107 in the First Schedule)

These provisions will exempt from sales tax unexposed or undeveloped cinematograph film as well as negatives, positives and reversals produced on cinematograph film, provided that the film -

- (a) is for use, for business or industrial purposes, in the production of motion picture films (other than film for the private, domestic or personal use of the person by or for whom they are produced) and
- (b) is not for use, with or without further processing, as exhibition copies of motion picture films.

Currently, cinematograph film of this kind is taxable at 7.5%.

The exemption from sales tax will be deemed to have applied from 22 August 1984.

The provisions of the Bills are explained in more detail in the notes that follow.

SALES TAX (NOS. 1 TO 9) AMENDMENT BILLS 1984

The main purpose of the Bills is to impose tax, at the new rate of 10%, on the sale value of goods to be covered by the proposed Sixth Schedule to the Sales Tax (Exemptions and Classifications) Act 1935 (see the notes on Schedule 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill 1984).

The Bills will also re-impose sales tax, at the current rates, on goods covered by the Second, Third, Fourth or Fifth Schedule to the Sales Tax (Exemptions and Classifications) Act as well as on goods not covered by any Schedule to that Act.

The new rate of tax, and the re-imposed rates of tax, will take effect in relation to transactions liable to sales tax occurring at or after 8pm (A.E.S.T.) on 21 August 1984 and will be -

Goods covered by the Second Schedule	32.5%
Goods covered by the Third Schedule	7.5%
Goods covered by the Fourth Schedule	20%
Goods covered by the Fifth Schedule	20%
Goods covered by the Sixth Schedule	10% (new)

As the rating provisions in each of the nine Bills are expressed in similar terms, the corresponding clauses of each are dealt with collectively.

Clause 1 : Short title, etc.

Clause 1 of each Bill formally states the citation of the amending Act and refers to the relevant Sales Tax Act as the Principal Act.

Clause 2 : Commencement

By this clause of each Bill, the amending Acts will be deemed to have come into operation at the hour of 8 o'clock in the evening, by standard time in the Australian Capital Territory, on 21 August 1984. But for clause 2, the amending Act would - by reason of sub-section 5(1A) of the Acts Interpretation Act 1901 - come into operation on the twenty-eighth day after the date of Royal Assent.

Clause 3 : Imposition and rates of tax

Sub-clause 3(1) will repeal sections 3 and 4 of each of the Principal Acts and substitute new sections 3 and 4.

The substituted section 3 will formally impose sales tax at the rates specified in proposed section 4 upon the sale value of goods sold or otherwise dealt with in taxable circumstances at or after 8pm (A.E.S.T.) on 21 August 1984.

Substituted section 4 will set out the rates of sales tax applicable to goods covered by the relevant Schedules to the Sales Tax (Exemptions and Classifications) Act and to goods not covered by any Schedule. Although section 4 is being repealed by sub-clause 3(1) and a new section 4 inserted, the only difference in the substituted section 4 will be to impose sales tax, at the new rate of 10%, upon the sale value of goods to be covered by the Sixth Schedule to that Act (as proposed to be inserted by Schedule 3 to the Sales Tax (Exemptions and Classifications) Amendment Bill - see notes on Schedule 3).

Sub-clause (2) is a saving clause which will ensure that sales tax at the rates imposed by the repealed sections 3 and 4 will continue to be imposed as if those sections had not been repealed. Effectively, it ensures that tax is still payable at the previous rates of sales tax on goods sold or otherwise dealt with in taxable circumstances before 8pm (A.E.S.T.) on 21 August 1984.

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT  
BILL 1984

Clause 1 : Short title, etc.

This clause formally states the citation of the amending Act as the Sales Tax (Exemptions and Classifications) Amendment Act 1984 and refers to the Sales Tax (Exemptions and Classifications) Act 1935 as the Principal Act.

Clause 2 : Commencement

By sub-clause (1) of this clause, it is proposed that clause 1 and this clause will come into operation on the date of Royal Assent.

By sub-clause (2), it is proposed that the amendment to be made by Schedule 1 (imported and re-imported goods) will be deemed to have come into operation on 8 May 1984.

By sub-clause (3), the amendments to be made by Schedule 2 (beer, wine, cider and other beverages) and Schedule 3 (alcoholic beverages) will be deemed to have come into operation at 8pm A.E.S.T. on 21 August 1984.

By sub-clause (4), it is proposed that the amendment to be made by Schedule 4 (goods for use in the production of motion picture films) will be deemed to have come into operation on 22 August 1984.

But for sub-clauses (1) to (4), the amending Act would - by reason of sub-section 5(1A) of the Acts Interpretation Act 1901 - come into operation on the twenty-eighth day after Royal Assent.

Clause 3 : Interpretation

This clause will amend section 3 of the Principal Act, an interpretative provision which ascribes particular meanings to words and expressions used in, or in parts of, the Principal Act.

By new sub-section 3(6), references to 'beer' in the First Schedule to the Principal Act and in the proposed new Sixth Schedule (see notes on sub-clause 4(3) and Schedule 3 to the Bill) will be taken to mean any fermented liquor that is brewed from a mash and which contains hops (including any substance prepared from hops) or other bitters. The definition includes ale, lager, porter and stout.

Under new sub-section 3(7), the reference in the First Schedule and the proposed Sixth Schedule to the Principal Act to the volume of alcohol contained in a beverage shall be taken to be the volume of ethyl alcohol in that beverage when measured at 20 degrees Celsius. As well, sub-section 3(7) will provide that in ascertaining the volume of alcohol by reference to its specific gravity, any calculation is to be made on the basis that, at 20 degrees Celsius and in a vacuum, the specific gravity of alcohol in relation to water is 0.79067.

Clause 4 : Amendments relating to Schedules to Principal Act

Clause 4 proposes that the Schedules to the Principal Act be amended as set out in the Schedules to this Bill. There are four Schedules to the Bill. Schedules 1 and 2 will amend the First Schedule to the Principal Act, Schedule 3 will insert the proposed Sixth Schedule and Schedule 4 will amend the First and Third Schedules to the Principal Act. Notes on each of the four Schedules to this Bill are contained later in this explanatory memorandum.

Clause 5 : Application of amendments

Sub-clause 5(1) provides that the amendments made by clause 3 and sub-clauses 4(2) and 4(3), which all relate to the changed sales tax treatment of beer, cider, wine and certain other alcoholic and non-alcoholic beverages, apply in relation to transactions, acts and operations effected or done in relation to those goods after 8pm A.E.S.T. on 21 August 1984.

Sub-clause 5(2) is directed at the situation where goods are sold by retail by a person who is registered under the Sales Tax Assessment Acts and who has purchased or imported the goods. Such a person has a liability in respect of those retail sales by virtue of section 3 of Sales Tax Assessment Acts (Nos. 2, 3, 6 and 7).

At or after 8pm A.E.S.T. on 21 August 1984, certain exempt goods become taxable and certain taxable goods become taxable at higher or lower rates. In respect of those goods

which will remain taxable but at higher or lower rates, and in a context where a liability arises in respect of the sales of those goods by retail by a registered person, regulation 49 of the Sales Tax Regulations provides that, where sales tax has been paid on the purchase or importation of those goods, the registered person is entitled to a refund, by way of rebate, of the whole of the tax which becomes payable on their sale by retail. The intended effect of this is that a registered person, having paid tax at the time of purchase or importation of goods, has no further liability in respect of any retail sales of those goods.

No such provision exists in respect of exempt goods which are taxable at or after 8pm A.F.S.T. on 21 August 1984. Sub-clause 5(2) authorises, in effect, a remission of tax that would otherwise be payable by a registered person who had purchased exempt goods and subsequently became liable to pay tax on their sale by retail.

The effect of paragraph 5(2)(f), when read with sub-paragraph 5(2)(c)(i), is to place a registered retailer, who purchases or imports such goods without the quotation of a certificate, on an equal footing with a retailer who is not entitled to be registered and consequently has no liability in respect of the retail sales of goods which are to become taxable, but which were exempt at the time of purchase.

Paragraph 5(2)(f) does not apply in respect of a registered person who purchases or imports goods under quotation of a certificate, and places those goods in a tax-free common stock for sale by retail or wholesale as occasion arises. Such a person is in broadly the same position as a person who sells principally by wholesale and who also operates from a tax-free stock.

Registered persons operating from tax-free stocks are liable to account for tax on sales of taxable goods by retail, the tax being payable on the fair market value of the goods if sold by wholesale. Because such persons are ordinarily liable to account for tax on their retail sales it is not necessary to make any special provision for them. Goods which were exempt but which are to become taxable after 8pm A.E.S.T. on 21 August 1984 will bear tax on their sale by retail. Similarly, goods which are to become taxable at higher rates will bear tax on their sale by retail at the higher rate.

It is also not necessary to make any special provision for manufacturers. The tax liability of a manufacturer who treats stock for sale by retail arises when the goods are placed into stock for retail sale. Where exempt goods are placed into retail stock by a manufacturer the tax liability arises at that point and, as the goods are exempt at the taxing point, no tax is payable. Where the goods become taxable at or after 8pm A.E.S.T. on 21 August 1984, no tax liability arises at the time of their sale by retail, the goods having passed the taxing point. Effectively, the goods stand in the same position as goods

held in retail stock by retailers where the goods were exempt but become taxable at or after 8pm A.E.S.T. on 21 August 1984.

Sub-paragraph 5(2)(c)(iii) read in conjunction with paragraph 5(2)(f) relates to retailers who are not registered persons but if they were registered persons would not have been required to quote their certificates in respect of the purchase or importation of goods. An example would be a person who sells principally by retail but makes occasional wholesale sales. The clauses also cover the position of a retailer/wholesaler who, up until 8pm A.E.S.T. on 21 August 1984, dealt only in exempt goods and therefore was not required to be registered but is required to become registered after 8pm A.E.S.T. on 21 August 1984 because the goods have become taxable. The effect of sub-paragraph 5(2)(c)(iii) and paragraph 5(2)(f) will be to place such persons in the same position as outlined above for sub-paragraph 5(2)(c)(i) and paragraph 5(2)(f).

By the proviso to sub-section 4(1) in the Sales Tax Assessment Acts (Nos. 2, 3, 6 and 7), where goods are sold by retail by a person who is registered under the Sales Tax Assessment Acts, and who has quoted his certificate in respect of the purchase or importation of those goods, the sale value on which tax is payable in respect of those goods is the fair market value of those goods if sold by that person by wholesale. But for the proviso, tax would be payable on the actual retail sale price of the goods and this would be a departure from the general scheme of the law to tax on the basis of wholesale values only.

At or after 8pm A.E.S.T. on 21 August 1984 certain merchants will be obliged to pay tax on their retail sales of goods which were previously exempt from sales tax prior to that date. Because the goods were exempt the merchants will not have quoted their certificates when purchasing or importing the goods. They will therefore not secure the benefit of the proviso to each of the abovementioned Acts which only applies where the certificate of registration was quoted in respect of the purchase or importation of the goods.

Paragraph 5(2)(g), read in conjunction with sub-paragraph 5(2)(c)(ii), provides, in effect, for a remission of tax in excess of that which would be payable on the fair market value of the goods.

By sub-clause 5(3) the amendment made by sub-clause 4(1) (imported and re-imported goods) applies in relation to importations and re-importations of goods into Australia after 7 May 1984, which was the day on which these proposed changes to the law were announced.

Under sub-clause 5(4) the amendments made by sub-clause 4(4) (goods for use in the production of motion picture films) apply in relation to transactions, acts and operations on and after 22 August 1984.

Schedule 1 : Imported and re-imported goods

This Schedule provides for the omission of existing item 116 in the First Schedule to the Principal Act, which exempts from sales tax certain imported Australian and re-imported goods, and its substitution by a new item 116.

Proposed sub-item 116(1) will, with one exclusion, provide an exemption from sales tax for imported or re-imported goods the produce or manufacture of Australia, which would have been exempt under an item or sub-item in the First Schedule to the Principal Act if those goods -

- (a) had been produced or manufactured in Australia; and
- (b) rather than having been exported, had been purchased in Australia for use or consumption in Australia in the same circumstances as those in which the goods are to be used or consumed after their importation or re-importation.

This proposed sub-item will maintain the tax-exempt status for goods which are the produce or manufacture of Australia where those goods would have been exempt had they not been exported. This will be so whether the goods would, but for their export and importation or re-importation, have qualified for conditional exemption, or have been unconditionally exempt.

It is proposed to exclude from exemption under sub-item 116(1) goods that have been repaired, altered or renovated outside Australia. This exclusion is necessary to ensure the payment of sales tax on the value of repairs, alterations or renovations made to goods, the produce or manufacture of Australia, which are either exported for repair, etc., or are otherwise repaired, etc., overseas and are subsequently imported. Sales tax is payable on parts used in the repair, alteration or renovation of goods in Australia and the exclusion is designed so that similar treatment is accorded to goods repaired, etc., overseas. But for this exclusion, parts, materials or other goods incorporated in the goods being repaired, etc., in the course of the repair, alteration or renovation would, where other requirements had been satisfied, gain exemption from tax under the sub-item.

By proposed sub-item 116(2) exemption will apply, with one exclusion, for imported or re-imported goods in respect of which sales tax became payable before their importation or re-importation and the Commissioner is satisfied that all the tax applicable to them has been paid and not refunded. This will ensure that taxable goods which have borne tax once will not be subjected to tax again on their importation or re-importation.

The exclusion in sub-item (2) again relates to goods that have been repaired, altered or renovated outside Australia. This exclusion, like that in sub-item 116(1), is to ensure that tax is payable on the value of the repairs, alterations or renovations made to the goods.

The amendment contained in Schedule 1 is, by virtue of sub-clauses 2(2) and 5(3), to apply to importations occurring after 7 May 1984.

Schedule 2 : Beer, cider, wine, etc.

Clause 1 of this Schedule proposes the amendment of item 36 in the First Schedule to the Principal Act, which exempts from sales tax a range of alcoholic and non-alcoholic beverages.

Paragraph (a) of clause 1 will omit sub-items 36(1) and (2) of the First Schedule, which presently exempt from tax Australian produced beer and cider, and substitute new sub-items (1) and (2).

Proposed new sub-item 36(1) will exempt from sales tax Australian produced beer which contains more than 1.15% by volume of alcohol (beer to be exempted by this item is already subject to excise). The effect of the amendment of sub-item (1) will be that ultra-low alcohol beer (that is, beer containing not more than 1.15% alcohol) and non-alcoholic beer which are presently exempt from both sales tax and excise will become taxable at the general rate of 20%. All imported beer will continue to be subject to sales tax at the general rate and to customs duty.

New sub-item 36(2) will exempt from sales tax Australian produced non-alcoholic cider (that is, cider which contains not more than 1.15% by volume of alcohol). Under the present sub-item 36(2), all Australian produced cider is exempt from tax. Imported cider is taxable at the general rate of 20%. The effect of the amendment will be that Australian produced cider which contains more than 1.15% of alcohol will become subject to tax, under the proposed Sixth Schedule to the Sales Tax (Exemptions and Classifications) Act, at the new rate of 10% (see notes on Schedule 3 to this Bill).

Paragraph (b) of this clause will omit sub-item 36(4) of the First Schedule to the Principal Act, which presently exempts Australian wine from sales tax, and will substitute new sub-items 36(4) and (5).

Proposed sub-item 36(4) will exempt from sales tax Australian (grape) wine that contains not more than 1.15% alcohol. Under amendments proposed by Schedule 3 to this Bill, Australian wine containing more than 1.15% alcohol, which is presently exempt under sub-item 36(4), and alcoholic imported wine is to be taxed at the new rate of 10%. Imported wine containing not more than 1.15% alcohol will continue to be taxable at the general rate of 20%.

By sub-item 36(5), a range of Australian and imported beverages which contain not more than 1.15% by volume of alcohol will be exempt from tax. Beverages so exempt will be - mead, perry, sake and other similar fermented beverages as well as other beverages which are similar to (but not including) wine and cider. This latter class of beverages will include principally fruit wines, vegetable wines and wines made from other food sources.

Specifically excluded from the exemption will be beverages consisting of, or containing, beer, spirits (other than fortifying spirits), liqueurs and spirituous liquors.

Imported beer, cider and wine, which are excluded from the existing exemptions provided by sub-items 36(1), 36(2) and 36(4), respectively, will continue to be excluded from the proposed substituted sub-items.

Clause 2 of Schedule 2 to the Bill will insert a new item 65A in the First Schedule to the Principal Act. Proposed new item 65A will exempt from tax Australian and imported wine for use in church services. Previously, the unconditional exemption for Australian wine covered Australian produced wine used for those purposes, while imported wine so used was taxable.

The amendments contained in Schedule 2 are, by virtue of sub-clauses 2(2) and 5(1), to apply to transactions and other taxable acts occurring at or after 8pm (A.E.S.T.) on 21 August 1984.

### Schedule 3

Schedule 3 to the amending Bill sets out the new Sixth Schedule to the Principal Act which it is proposed be inserted by sub-clause 4(3) of the Bill. The new Schedule will cover a range of alcoholic beverages which it is proposed will be subject to sales tax at the new rate of 10%.

The Sixth Schedule will apply to Australian and imported cider, mead, perry, sake, wine and other similar fermented alcoholic beverages (such as fruit wine, vegetable wine and wine made from other food sources), but will specifically exclude fermented alcoholic beverages -

- . that contain not more than 1.15% alcohol; or
- . that consist of, or contain, beer, spirits (other than fortifying spirits), liqueurs or spirituous liquors.

The overall effect of the new Schedule will be that -

- . Australian cider and Australian (grape) wine, which are presently exempt from tax by virtue of sub-items 36(2) and (4) respectively in the First Schedule to

the Principal Act, will be subject to tax at the rate of 10%, provided that they contain more than 1.15% alcohol; and

- . Australian and imported non-grape wines, which are currently taxable at the general rate of 20%, will also be subject to tax at the reduced rate of 10%.

The amendments contained in Schedule 3 will, by virtue of sub-clauses 2(2) and 5(1), apply to transactions and other taxable acts occurring at or after 8pm (A.E.S.T.) on 21 August 1984.

Schedule 4 : Cinematograph film used in the production of motion picture films

Clause 1 of this Schedule will insert a new item in the First Schedule to the Principal Act, which will exempt from tax certain cinematograph film for use in the production of motion picture films.

Proposed new item 107 in the First Schedule will exempt from sales tax unexposed or undeveloped cinematograph film as well as negatives, positives and reversals produced on cinematograph film, provided that the film -

- (a) is for use, for business or industrial purposes, in the production of motion picture films (other than films for the private, domestic or personal use of the person by or for whom they are produced); and
- (b) is not for use, with or without further processing, as exhibition copies of motion picture films.

Clause 2, which is consequential upon the amendment proposed by clause 1, will amend item 107A in the First Schedule to the Principal Act, which deals with goods used in the production of motion picture films, to delete a reference in that item to goods covered by "sub-item (2) of item 6 in the Third Schedule" and substitute a reference to goods covered by new item 107.

Cinematograph film of the kind now being exempted is presently covered by sub-item 6(2) in the Third Schedule to the Principal Act and is subject to tax at the rate of 7.5%. Clause 3 to Schedule 4 will amend the Third Schedule to the Principal Act by omitting sub-item 6(2).

The amendments contained in Schedule 4 will, by virtue of sub-clauses 2(4) and 5(4), apply to transactions and other taxable acts occurring on or after 22 August 1984.











