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**THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA**

**SENATE**

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**TAXATION LAWS AMENDMENT BILL (No. 2) 1993**

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**FURTHER SUPPLEMENTARY EXPLANATORY  
MEMORANDUM [REDACTED] AMENDMENT -  
CLAUSES 65 TO 68)**

(Circulated by the authority of the Treasurer,  
the Hon. J.S. Dawkins, M.P.)

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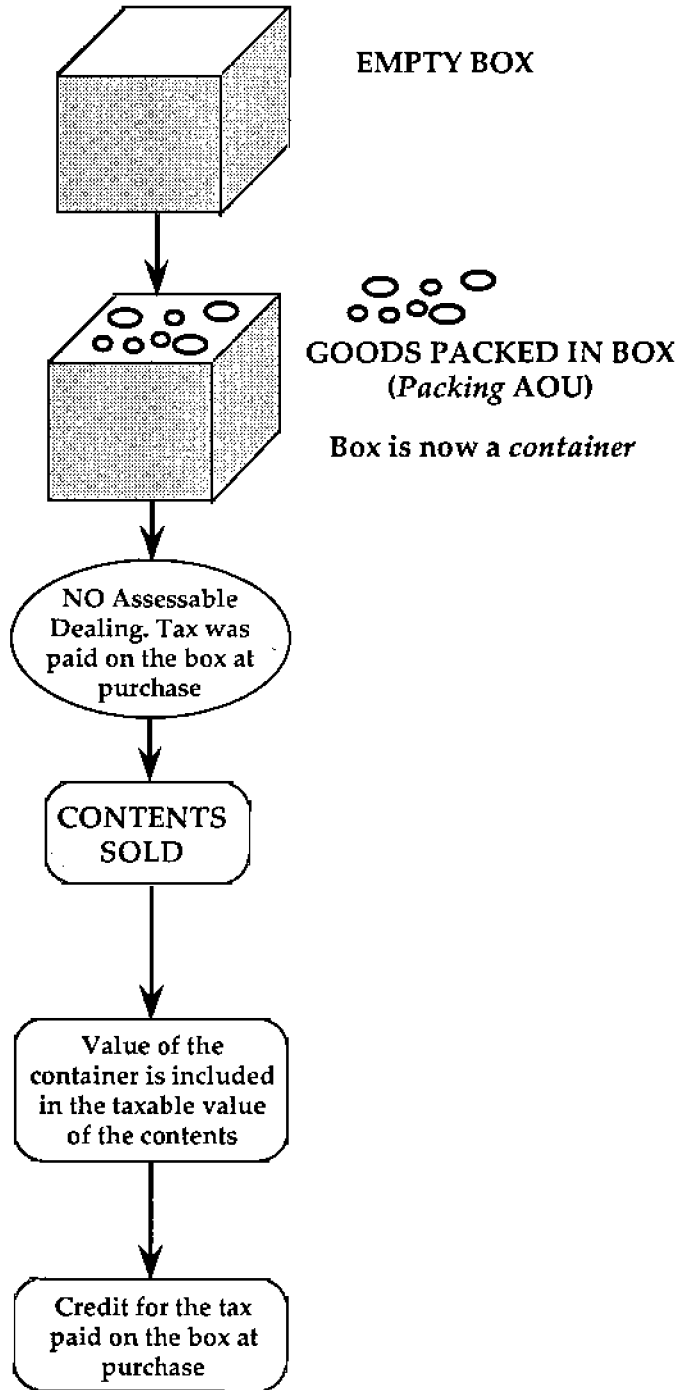


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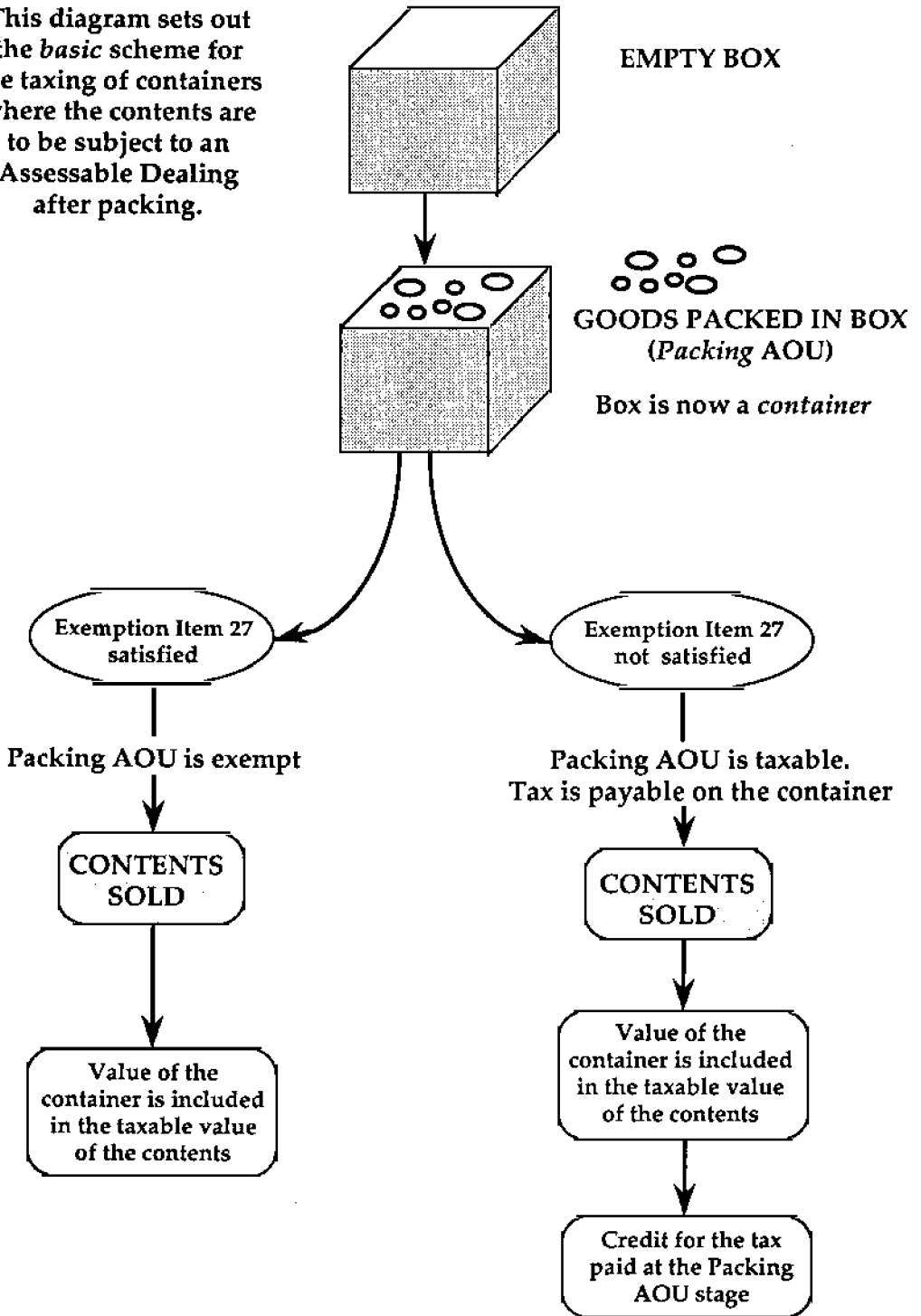
# CONTAINERS PURCHASED TAX PAID

This diagram sets out the *basic* scheme for the taxing of containers where the contents are to be subject to an Assessable Dealing after packing.



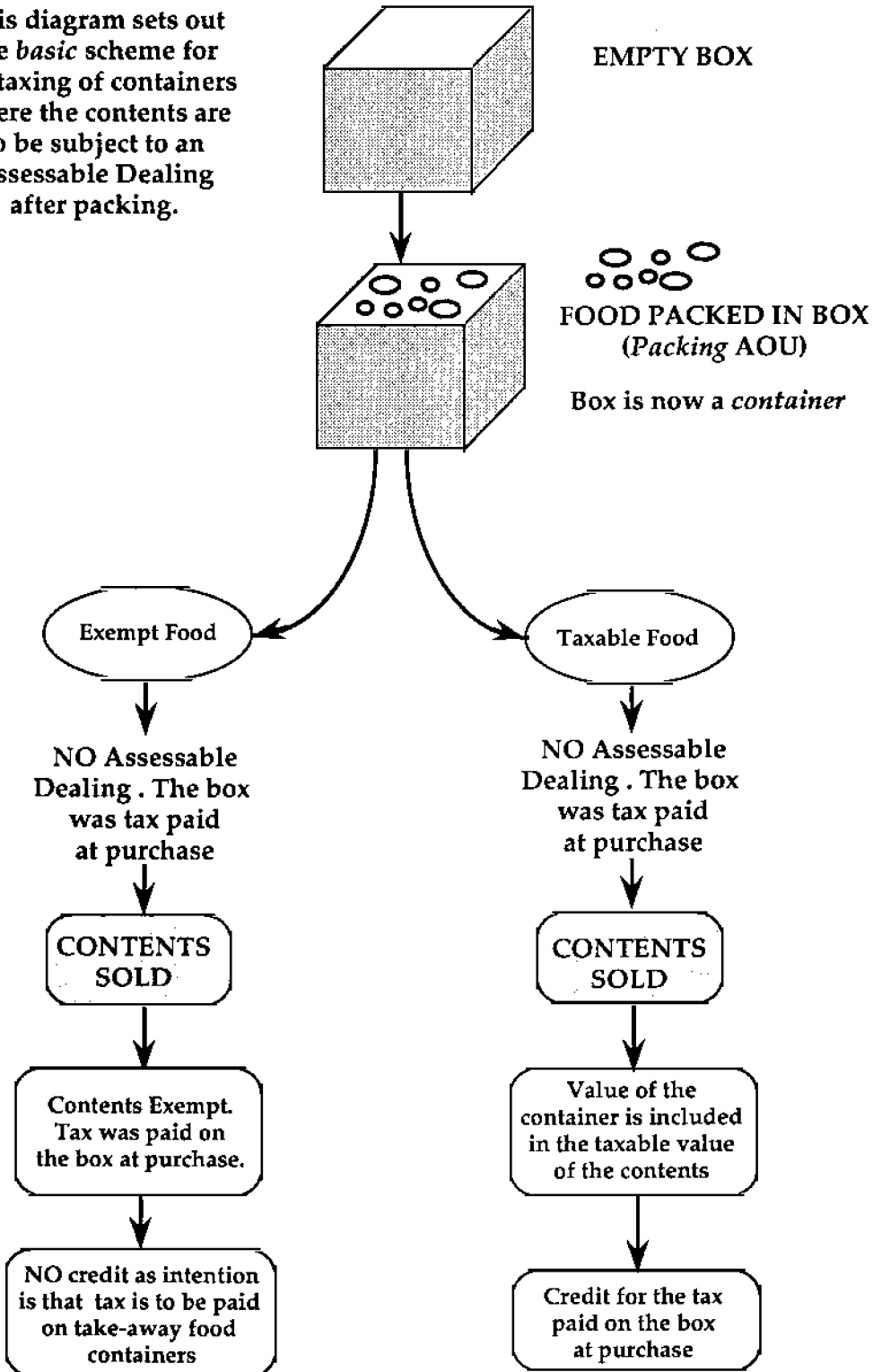
# CONTAINERS PURCHASED FREE OF SALES TAX

This diagram sets out the *basic* scheme for the taxing of containers where the contents are to be subject to an Assessable Dealing after packing.



# CONTAINERS FOR USE WITH TAKE-AWAY FOOD (CONTAINERS ARE TAX PAID AT PURCHASE)

This diagram sets out the *basic* scheme for the taxing of containers where the contents are to be subject to an Assessable Dealing after packing.



## GENERAL OUTLINE AND FINANCIAL IMPACT

The proposed amendments of the sales tax law are designed to maintain the general principle that containers for goods should receive the same tax treatment as their contents. The amendments will alter the mechanisms for achieving this under the existing law in the case of containers purchased tax-paid by a taxpayer.

2. **Financial Impact:** The amendments will prevent a significant, but unquantifiable, loss to the revenue.

## BACKGROUND

3. The general principle of the sales tax law is that a container and its contents should be taxed at the same time and at the same rate. This is achieved by providing a wide exemption from tax for containers in their own right, but including their value in the taxable value of any subsequent dealing with their contents.

**Note:** The exemption for containers is contained in exemption Item 27 in Schedule 1 to the Sales Tax (Exemption and Classifications) Act 1992. The inclusion of the value of the container in the taxable value of the contents is contained in section 35 of the Sales Tax Assessment Act 1992.

4. There is, however, an exclusion from this rule in the case of containers which are purchased tax-paid. In this case, the value of the container is excluded from the taxable value of the contents, so as to avoid the double taxation of the container. This approach to the avoidance of double taxation is not producing the desired result:
  - first, in the case of a container that is taxable in its own right at a rate that is less than the rate applicable to its contents, if the container is purchased tax paid there is no mechanism in the law to recover the difference;
  - second, the value of the container is being inflated to include a range of costs (and profit margin) added after the point at which tax was paid on the container. This has the effect of excluding from the taxable value of the contents an untaxed proportion of the value of the contents.
5. In both the cases outlined in paragraph 4, the exclusion of the value of the tax-paid container from the taxable value of the contents is not producing a result that is consistent with container and contents being taxed at the same rate and time.

## EXPLANATION OF THE AMENDMENTS

6. In order to ensure that contents and container receive the same tax treatment, it is proposed:
  - a) to include the value of all containers in the taxable value of their contents;

b) to provide a credit entitlement, at the time of the taxable dealing with the contents, for the amount of any tax previously paid on the container, when it was the subject of an assessable dealing in its own right.

7. **Container component:** The exclusion of the value of a container that has already borne tax, from the taxable value of its contents is made by paragraph 35(4)(a) of the Sales Tax Assessment Act 1992. In order to include the value of all containers in the taxable value of their contents, paragraph 35(4)(a) will be repealed [*Clause 66*].

8. **New Credit Grounds:** It is proposed to provide a credit for any tax borne on a container in its own right that subsequently:

a) has its value included in the taxable value of its contents; and

b) is a container for contents which are the subject of an assessable dealing that is not taxable for any reason (other than because the dealing is covered by the small business exemption available under the sales tax law).

**Note:** It is not intended that a credit entitlement should be available in the case of containers which are covered by sub-item 27(3) in Schedule 1 to the Sales Tax (Exemptions and classifications) Act 1992. Containers of this kind fall outside the general principle that containers and contents should receive the same tax treatment.

9. Sometimes, a container and its contents will be regarded as separate goods at the time of the assessable dealing with the contents. In these cases, a new credit ground will be introduced. [*Clause 67, paragraph (b) - new CR8A*].

10. In other cases, a container and its contents will be regarded as the same goods at the time of the assessable dealing with the contents. In these cases, existing credit ground CR6 will provide the credit if the assessable dealing with the contents is taxable. Similarly, CR7 will provide the credit if the assessable dealing with the contents is exempt. However, in the case of CR7 an amendment will be necessary to exclude the credit entitlement in cases where the container is for goods covered by sub-item 27(3) in Schedule 1 to the Sales Tax (Exemptions and Classifications) Act 1992. [*Clause 67*].

## COMMENCEMENT AND APPLICATION

11. The amendments will apply to all assessable dealings with goods taking place after 26 May 1993. [*Clause 68*].

