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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SALES TAX AMENDMENT (OFF-SHORE INSTALLATIONS)BILL (NO.1)1982
SALES TAX AMENDMENT (OFF-SHORE INSTALLATIONS)BILL (NO.2)1982
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SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT (OFF-SHORE INSTALLATIONS) BILL 1982

OFF-SHORE INSTALLATIONS (MISCELLANEOUS AMENDMENTS) BILL 1982 (PARTS VIII AND IX)

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Hon. John Howard, M.P.)

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General outline

The purpose of this group of Bills is to expand the application of the sales tax law to off-shore installations which are attached to the continental shelf of Australia for the purpose of exploring and exploiting the mineral and non-living resources of the seabed and its subsoil. The Bills, together with Parts I to VII of the Off-shore Installations (Miscellaneous Amendments) Bill 1982, the Customs Tariff Amendment (Off-shore Installations) Bill 1982, the Customs Tariff (Anti-Dumping) Amendment (Off-shore Installations) Bill 1982 and the Excise Tariff Amendment (Off-shore Installations) Bill 1982, are designed to apply certain revenue, health and immigration laws uniformly to such off-shore installations as if those installations were part of Australia.

Broadly, the Bills propose that any installation (as defined) which is attached to the continental shelf for resource exploration or exploitation purposes will be given, from the date of its attachment, the status of a place in Australia. As a consequence, any transaction or act affecting goods on such an installation which would be taxable if the goods were in geographical Australia will, in future, be taxable as if those goods were in Australia. This will mean that -

- goods manufactured on an off-shore installation will be treated as goods manufactured in Australia for the purposes of Sales Tax Acts (Nos. 1 to 4) and the Sales Tax Assessment Acts (Nos. 1 to 4)

- goods taken onto an off-shore installation from a place outside Australia will be treated as goods imported into Australia for the purposes of Sales Tax Acts (Nos. 5 to 8) and the Sales Tax Assessment Acts (Nos. 5 to 8)

- any sale, lease or application to a taxpayer's own use of goods on an installation will be treated, for the purposes of Sales Tax Acts (Nos. 1 to 4 and 6 to 9) and the Sales Tax Assessment Acts (Nos. 1 to 4 and 6 to 9), as a sale, lease or application to own use of goods in Australia.

The practical effect of the proposed amendments will not be to subject to sales tax the installations themselves insofar as those installations are for use in the mining industry in carrying out mining operations or in the treatment of the products of those operations. Such installations are, to the extent referred to, exempt from sales tax by virtue of item 14 of the First Schedule to the Sales Tax (Exemptions and Classifications) Act 1935.

Introductory note

Sales tax is a single stage tax which is designed substantially to fall on sales by manufacturers and wholesalers to retailers, broadly, the point of the last wholesale sale. The intention is that all goods that are manufactured in, or imported into, Australia for use or consumption here shall bear the tax unless the goods are, by reason of their nature or the use to which they are to be put, specifically exempted from it.

The imposition of sales tax is not limited strictly to sales. The tax could also fall, for example, on leases of goods or on the application of goods to a taxpayer's own use. It may also fall on the importation of goods when the goods are not imported for sale by wholesale, e.g., when imported by a consumer or retailer.

For constitutional reasons there are nine separate sales tax "assessment" Acts each with its corresponding rating Act. Sales Tax Acts (Nos. 1 to 9) impose sales tax on different transactions or acts effected or done in relation to goods and, as well, prescribe the rates of tax that are to apply to various classes of taxable goods. The nine complementary Sales Tax Assessment Acts provide the machinery for assessment, collection and administration of the tax so imposed. The different kinds of transactions or acts to which the various rating and assessment Acts apply are as follows:

Sales Tax Act (No.1) and Sales Tax Assessment Act (No.1)	-	Goods manufactured in Australia and sold by the manufacturer, treated by him as stock for sale by retail, or applied to his own use.
Sales Tax Act (No.2) and Sales Tax Assessment Act (No.2)	-	Goods manufactured in Australia and sold by a purchaser (usually a wholesaler) from the manufacturer.
Sales Tax Act (No.3) and Sales Tax Assessment 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 Act (No.4) and Sales Tax Assessment Act (No.4)	-	Goods manufactured in Australia and applied by the purchaser to his own use.

Sales Tax Act (No.5) and Sales Tax Assessment Act (No.5)	-	Goods imported into Australia.
Sales Tax Act (No.6) and Sales Tax Assessment Act (No.6)	-	Goods imported into Australia and sold by the importer or applied to his own use.
Sales Tax Act (No.7) and Sales Tax Assessment Act (No.7)	-	Goods imported into Australia and sold by a person other than the importer.
Sales Tax Act (No.8) and Sales Tax Assessment Act (No.8)	-	Goods imported into Australia, purchased by a taxpayer, and applied to his own use.
Sales Tax Act (No.9) and Sales Tax Assessment Act (No.9)	-	Certain goods in Australia dealt with by lease.

Additionally, the Sales Tax (Exemptions and Classifications) Act 1935 contains provisions and Schedules specifying the classes of goods that are exempt from tax and those that are taxable at particular rates. Goods not specified in any of the Schedules are taxable at the general rate, currently 17½ per cent.

The main features of the Bills are -

Application of the sales tax law to the continental shelf

(Clause 114 of the Off-shore Installations (Miscellaneous Amendments) Bill)

The sales tax law does not currently extend to transactions or acts involving goods which are outside Australia but within the area of the continental shelf.

By the Bills it is proposed to extend the sales tax law to apply to any installation (as defined in proposed amendments to section 3 of the Sales Tax Assessment Act (No.1) 1930) which is attached or taken to be attached to the Australian seabed for the purposes of exploring and exploiting the mineral and non-living resources of the seabed and its subsoil. "Australian seabed" will be defined as the seabed adjacent to Australia that is within the areas described in Schedule 2 to the Petroleum (Submerged Lands) Act 1967 and the Coral Sea area as defined in that Act, where those areas form part of the Australian continental shelf, the seabed beneath the Australian territorial sea or the seabed beneath any internal waters (such as bays and inlets) which are not within the limits of a State or Territory.

Although clause 114 will insert a number of definitions and interpretation provisions in the Sales Tax Assessment Act (No.1) 1930 only, these definitions and provisions will also apply for the purpose of the Sales Tax Assessment Acts (Nos. 2 to 9), the Sales Tax Acts (Nos. 1 to 9) and the Sales Tax (Exemptions and Classifications) Act 1935.

Off-shore Installations attached to the Australian seabed

(Clause 3 of the Sales Tax Amendment (Off-shore Installations) Bills (Nos. 1 to 9) - proposed section 2A and clause 3 of the Sales Tax (Exemptions and Classifications) Amendment (Off-shore Installations) Bill - proposed section 6D)

The proposed amendments will apply to two types of off-shore installations: fixed structures and mobile units.

Fixed structures are to be defined as structures (including a pipeline) which cannot be moved from place to place and which are to be used in any activities associated with, or incidental to, exploring the non-living resources of the Australian seabed.

Mobile units are to be defined as vessels or other floatable and moveable structures which are to be used wholly or principally for drilling the seabed (or for similar activities) with equipment on or forming part of the unit, or for purposes which are incidental to activities of that kind. Certain vessels and structures which would otherwise be regarded as mobile units will be specifically excluded from the application of the amendments. These are units which are used wholly or principally to transport persons or goods to or from an installation or which are involved in the manoeuvring or attaching of an installation to the seabed.

Attachment to the seabed will be effected by bringing the installation, or any part of the installation, into physical contact with the seabed. Usually this would occur as soon as an installation's anchoring device is lowered to the seabed. Where an installation is not to be attached to the seabed itself, but to another installation which is attached to the seabed, the effect of the amendments will be to treat the first-mentioned installation as also being attached to the seabed.

Physical attachment to the seabed will not, by itself, bring the installation within the application of the sales tax law. It will also be necessary, before an installation will be regarded as attached to the seabed for the purposes of the sales tax law, for the installation to be used, or be intended for use, at the place of attachment wholly or principally in any activities associated with, or incidental to, exploring or exploiting the non-living resources of the seabed or its subsoil. An installation will continue to be regarded as attached, and subject to the sales tax law, until it is detached to be taken outside Australian waters.

The amendments will apply equally to installations brought to the continental shelf directly from overseas and installations which are taken there from a place in Australia.

Once an installation is attached to the Australian seabed as described above it will, for the purposes of the sales tax law, be deemed to be part of Australia.

Installations deemed to be part of Australia

(Clause 3 of the Sales Tax Amendment (Off-shore Installations) Bill (No.5) - proposed sections 2B, 2C, 2D and 2E and clause 3 of the Sales Tax (Exemptions and Classifications) Amendment (Off-shore Installations) Bill - proposed sections 6E, 6F, 6G and 6H)

These clauses will apply the sales tax law to any goods on an installation which are the subject of a transaction or act which would be taxable if it occurred within geographical Australia. As a consequence of giving an installation the status of part of Australia -

- goods which are manufactured on an installation will be treated as goods manufactured in Australia for the purposes of the Sales Tax Acts (Nos. 1 to 4) and the Sales Tax Assessment Acts (Nos. 1 to 4)

- goods which are brought to the installation from a place outside Australia will be treated as goods imported into Australia for the purposes of the Sales Tax Acts (Nos. 5 to 8) and the Sales Tax Assessment Acts (Nos. 5 to 8) and goods taken off the installation to a place outside Australia will be treated as being exported from Australia

- goods on the installation which are dealt with by sale or lease, or applied to own use, will be treated as goods in Australia which are sold, leased or applied to own use for the purposes of Sales Tax Acts (Nos. 1 to 4 and 6 to 9) and the Sales Tax Assessment Acts (Nos. 1 to 4 and 6 to 9)

- goods which -

  - are taken from geographical Australia to the installation

  - are taken from the installation to geographical Australia

  - are taken from the installation to another installation

  will be treated as a movement of goods between 2 places in Australia.

Additionally, at the time the installation becomes part of Australia, the installation, and any goods on the installation at that time, will, for sales tax purposes, be deemed to be imported into Australia and will be liable, unless they are exempt from sales tax, to tax in respect of that importation.

When an installation is detached from the seabed and is taken or is to be taken to a place outside Australia and thereby ceases to be part of Australia, the proposed amendments will deem the installation, and any goods on it at that time to be exported from Australia. Thus, sales tax paid on any such goods could be made the subject of an application for refund of the tax, to the extent that the general sales tax law would permit the refund.

Detailed notes on provisions of the Bills, insofar as they concern sales tax, are set out below.

OFF-SHORE INSTALLATIONS (MISCELLANEOUS AMENDMENTS) BILL 1982

(PARTS VIII & IX)

General introduction

The Off-shore Installations (Miscellaneous Amendments) Bill is an omnibus Bill designed to apply certain revenue, health and immigration laws (including the sales tax laws) to off-shore installations which are attached to the continental shelf for purposes of exploiting or exploring the mineral and non-living resources of the seabed and its subsoil. The Bill contains all the amendments required to extend the application of these laws to installations of this kind, except for those amendments which effectively impose a tax on transactions or acts involving goods on these installations. For constitutional reasons these amendments are contained in separate Bills relating respectively to customs duty, excise duty or one subject of taxation only.

This memorandum explains those provisions of the Off-shore Installations (Miscellaneous Amendments) Bill 1982 dealing with amendments of the sales tax law. A separate explanatory memorandum deals with the amendments of the customs, excise, quarantine and immigration laws.

The amendments proposing the extension of the sales tax law to transactions or acts involving goods on installations on the continental shelf are contained in the Sales Tax Amendment (Off-shore Installations) Bills (Nos. 1 to 9) 1982 and the Sales Tax (Exemptions and Classifications) Amendment (Off-shore Installations) Bill 1982. Notes on these Bills are also contained in this memorandum.

Clause 2 : Commencement

By sub-clause 2(1) of the Off-shore Installations (Miscellaneous Amendments) Bill, by virtue of which amendments are made to the Sales Tax Assessment Act (No.1) 1930 and the Sales Tax Assessment Act (No.5) 1930, the amendments will come into operation on the twenty-eighth day after the day on which the amending Act receives the Royal Assent.

Clauses 3 to 112 (inclusive)

These clauses, which deal with amendments of the Customs Act 1901, the Customs Amendment Act 1981, the Excise Act 1901, the Immigration (Unauthorised Arrivals) Act 1980, the Migration Act 1958 and the Quarantine Act 1908 are, as explained above, the subject of a separate explanatory memorandum.

Clause 113 : Principal Act

This clause provides for the Sales Tax Assessment Act (No.1) 1930, which is being amended by Part VIII, to be referred to in that Part as "the Principal Act".

Clause 114 : Interpretation

By this clause, section 3 of the Principal Act, which contains definitions and interpretation provisions, will be amended to insert additional definitions and interpretation provisions for the purposes of identifying when an off-shore installation is to be treated as being an installation attached to the continental shelf. These definitions and interpretation provisions will, by virtue of provisions in those Acts, also apply in each of the other Acts forming part of the sales tax law.

By virtue of application provisions contained in each of the Sales Tax Assessment Acts (Nos. 2 to 9) the definitions and interpretation provisions of the Principal Act apply, mutatis mutandis, to those Acts. These definitions and interpretation provisions will also apply to each of the corresponding Sales Tax Acts which provide that each Sales Tax Act is to be incorporated and read as one with its corresponding Assessment Act. In addition, the Sales Tax (Exemptions and Classifications) Act provides that any expression used in the applicable Sales Tax Assessment Act will, unless the contrary intention appears, have the same meaning for the purposes of that Act.

The definitions proposed to be inserted in sub-section 3(1) of the Principal Act by paragraphs (a) to (d) of clause 114 are as follows:

"Australian installation" is to be defined to mean an installation which is deemed to be part of Australia by virtue of proposed sub-section 2A(1) of the Sales Tax Act (No.1) (see notes on clause 3 of the Sales Tax Amendment (Off-shore Installation) Bills (Nos. 1 to 4 and 6 to 9) at page 19 of this memorandum). The purpose of the definition is to distinguish between those installations which are to be treated as attached to the Australian seabed and to be treated as part of Australia and those which are not to be so treated. What will constitute attachment to the Australian seabed is set out in the notes on proposed sub-section 3(13) at pages 14 and 15.

"Australian seabed" is the term to be used to describe the additional geographical area to which it is proposed to apply the sales tax law. It will be so much of the seabed adjacent to Australia that is described in Schedule 2 to the Petroleum (Submerged Lands) Act 1967, or the Coral Sea area (as described in that Act), and which is part of -

(a) the continental shelf of Australia;

(b) the seabed of the Australian territorial sea; or

(c) the seabed of Australian internal waters (such as bays and inlets) that are within Commonwealth control.

"Australian waters" is to be defined to mean any waters above the Australian seabed.

"Continental Shelf" is to have the same meaning as in the international Convention on the Continental Shelf to which Australia is a signatory, a copy of which is set out in Schedule 1 to the Petroleum (Submerged Lands) Act 1967. The definition encompasses -

(a) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superadjacent waters allows the exploitation of the area's natural resources; and

(b) the seabed and subsoil of similar submarine areas adjacent to islands.

"Coral Sea area" will have the same meaning as that expression has in the Petroleum (Submerged Lands) Act 1967. In that Act it is defined to mean so much of the area east of the adjacent area in respect of Queensland (as defined in that Act) as comprises waters within the outer limits of the continental shelf, other than any part of that area which -

(a) is south of the parallel of latitude 25° South; or

(b) forms part of the internal waters of any island at mean low water.

"Installation" is to be defined as either -

(a) an off-shore industry fixed structure (which is defined in proposed sub-section 3(9)); or

(b) an off-shore industry mobile unit (which is defined in proposed sub-sections 3(10), (11) and (12))

(see notes on those proposed sub-sections).

"Natural resources" is to be defined as the mineral and other non-living resources of the seabed and its subsoil.

"Overseas installation" will mean an installation (as defined) which is in Australian waters and has been brought into those waters from a place outside Australia. However, it will not include an Australian installation. The purpose of the definition is to distinguish between those installations which are brought direct from overseas to be attached to the Australian seabed (irrespective of whether or not they are first imported into Australia) and those installations which are manufactured in Australia before being taken out and attached to the Australian seabed.

Paragraph (e) of clause 114 will insert new sub-sections 3(9) to (13) which will describe -

- those structures which will constitute off-shore industry fixed structures for the purposes of the definition of an "installation" proposed to be inserted in sub-section 3(1) of the Principal Act by paragraph (c) of this clause;

- those vessels and other structures which will constitute off-shore industry mobile units for the purposes of the definition of an "installation" proposed to be inserted in sub-section 3(1) of the Principal Act by paragraph (c) of this clause;

- the circumstances in which an installation is to be treated as attached to the Australian seabed.

Proposed sub-section 3(9) of the Principal Act will define an off-shore industry fixed structure to be any structure (including a pipeline) that is not able to move or be moved without being dismantled and is used or to be used off-shore in any operations or activities associated with or incidental to, exploring or exploiting natural resources on the continental shelf of Australia.

The definition of an off-shore industry fixed structure refers to those structures which are not able to be brought into Australian waters and attached to the Australian seabed as a single entity, but which are designed to be constructed or assembled in the continental shelf area. Such a structure will fall within the defined expression if any usage or intended usage of the structure is in an activity or operation incidental to resource exploration or exploitation and it also satisfies the criteria set out in proposed sub-section 3(13).

The identifying criteria for an off-shore industry mobile unit are to be set out in proposed sub-section 3(10) with certain qualifications contained in proposed sub-sections (11) and (12). These will vary depending upon whether the structure concerned is -

(a) a vessel; or

(b) a structure other than a vessel.

Both vessels and structures other than vessels will have to satisfy at least one of two common criteria -

- they must be used or intended for use wholly or principally in exploring or exploiting natural resources by drilling the seabed or its subsoil with equipment on or forming part of the vessel or structure, or by obtaining substantial quantities of material from the seabed or its subsoil with equipment of that kind; or

- they must be used or intended for use wholly or principally in operations or activities associated with, or incidental to, activities of the kind referred to.

A structure which is not a vessel will not be treated as a mobile unit unless, in addition to meeting one of these two tests, it is able to float or be floated and to move or be moved without being dismantled.

The essential differences between an off-shore industry mobile unit and an off-shore industry fixed structure will be three-fold -

- mobile units as opposed to fixed structures will be those units capable of being moved as a single entity (i.e., without dismantling);

- the usage test applicable to mobile units will be narrower than that for fixed structures. Fixed structures can be structures involved in incidental ways in any seabed resource exploration or exploitation, whereas mobile units will need to be involved, directly or incidentally, in operations or activities involving drilling the seabed or its subsoil with equipment on the unit or in obtaining substantial quantities of material from the seabed or its subsoil with similar equipment on the unit;

- a mobile unit will be one wholly or principally used or intended for use in activities and operations described above in relation to such units, whereas any usage or intended usage of a fixed structure in any natural resources exploration or exploitation will be sufficient for it to be treated as an installation.

Proposed sub-section 3(11) is essentially an evidentiary provision which will mean that, for the purposes of determining whether a vessel or structure is an off-shore industry mobile unit, the fact that the vessel or structure is also used or intended to be used in exploring or exploiting resources other than the mineral and non-living resources of the sea (e.g., in fishing operations) will not of itself be sufficient reason for not treating that vessel or structure as an off-shore industry mobile unit.

Proposed sub-section 3(12) will operate to exclude from the category of off-shore industry mobile units certain vessels which, while being wholly or principally engaged in activities incidental to resource exploration and exploitation, are nevertheless not to be treated as such units. These will be vessels which are either engaged in transporting persons or goods to or from an installation or in manoeuvring or attaching an installation to the Australian seabed.

Proposed sub-section 3(13) will describe the circumstances in which an installation is to be regarded as attached to the Australian seabed. This is an essential concept because installations which are taken to be attached to the Australian seabed by virtue of this sub-section will, under proposed sub-section 2A(1) of the Sales Tax Act (No.1) and corresponding provisions in the other Acts, be deemed to be part of Australia. The consequence of this is that the sales tax law will apply to transactions or acts involving goods on those installations as if those acts or transactions involved goods in Australia.

By virtue of proposed paragraph 3(13)(a), an installation will be treated as being attached to the Australian seabed if it is brought into physical contact with any part of the Australian seabed and it is used or is intended for use at that place wholly or principally in any operations or activities associated with, or incidental to, exploring or exploiting natural resources of the seabed or its subsoil.

Before an installation is to be taken as being attached to the Australian seabed it must satisfy two tests -

- the relevant test for determining whether the vessel or structure is an installation; and

- the test relating to its activities or intended activities, at the place where it is brought into physical contact with the seabed.

In addition, by virtue of proposed paragraph 3(13)(b), an installation which is not itself in physical contact with the Australian seabed will be treated as being attached to the seabed if it is brought into physical contact with another installation which is taken under proposed paragraph 3(13)(a) of the Principal Act as being in physical contact with the Australian seabed.

For the purposes of proposed sub-section 3(13) the time at which the vessel or structure is taken to be attached to the seabed would generally be when any anchoring device is lowered to the seabed or when connecting ropes are passed from the vessel or structure to the installation (provided the usage test is satisfied at that time). If the usage test is not satisfied at the time of physical attachment, the vessel or structure will be taken to be attached to the Australian seabed at the time when it is first used at the place of attachment wholly or principally in relevant activities or operations.

PART IX - AMENDMENT OF THE SALES TAX ASSESSMENT ACT(NO.5)1930

Clause 115 : Principal Act

By this clause, the Sales Tax Assessment Act (No.5) 1930 is in Part IX referred to for reference purposes as "the Principal Act".

Clause 116 : Interpretation

This clause will substitute a revised definition of "the Collector of Customs" in section 2A of the Principal Act.

Under the Principal Act the Collectors of Customs have certain powers, for example, the power to grant a person permission to take delivery of imported goods without payment of sales tax provided a sufficient security or undertaking is given. The present definition is too narrow in that it refers only to the Collector of Customs or other principal officer of the Customs for a State or Territory.

Where goods are imported directly onto an off-shore installation the installation will not, for sales tax purposes (other than for lodgment of returns and payment of tax), form a part of a State or Territory. Accordingly, it is necessary to define the expression "the Collector of Customs" in terms which will cover the principal officer of the Customs responsible for a particular installation onto which goods are imported, notwithstanding that that principal officer is not the Collector of Customs for a particular State or Territory.

SALES TAX AMENDMENT (OFF-SHORE INSTALLATIONS) BILLS (NOS. 1 TO 9) 1982

General introduction

The purpose of these nine Bills is to amend the Sales Tax Acts (Nos. 1 to 9) 1930 to impose tax on transactions or acts relating to goods on off-shore installations that are attached to the Australian seabed for the purpose of exploring or exploiting the mineral and non-living resources of the Australian seabed or its subsoil.

As explained in the introductory note to this memorandum, the Sales Tax Acts (Nos. 1 to 9) impose tax at specified rates on the following transactions or acts involving goods -

Sales Tax Act (No.1) 1930	-	Goods manufactured in Australia and sold by the manufacturer, treated by him as stock for sale by retail or applied to his own use.
Sales Tax Act (No.2) 1930	-	Goods manufactured in Australia and sold by a purchaser (usually a wholesaler) from the manufacturer.
Sales Tax Act (No.3) 1930	-	Goods manufactured in Australia and sold by a person not being either the manufacturer or a purchaser from the manufacturer.
Sales Tax Act (No.4) 1930	-	Goods manufactured in Australia and applied by the purchaser to his own use.
Sales Tax Act (No.5) 1930	-	Goods imported into Australia.
Sales Tax Act (No.6) 1930	-	Goods imported into Australia and sold by the importer or applied to his own use.
Sales Tax Act (No.7) 1930	-	Goods imported into Australia and sold by a person other than the importer.
Sales Tax Act (No.8) 1930	-	Goods imported into Australia, purchased by a taxpayer, and applied to his own use.
Sales Tax Act (No.9) 1930	-	Certain goods in Australia dealt with by lease.

Clause 1 : Short title, etc.

Sub-clause 1(1) formally provides for the short title and citation of the amending Act. By sub-clause (2) the particular Sales Tax Act that is being amended is referred to in each amending Act as "the Principal Act".

Clause 2 : Commencement

As each amending Bill is part of a package of Bills designed to uniformly apply existing revenue, health and immigration laws to off-shore installations of the kind described earlier in this memorandum, it is proposed that all Acts will have a common date of commencement.

Under this clause the amending Act will come into operation, or will be deemed to have come into operation, on the twenty-eighth day after the Off-shore Installations (Miscellaneous Amendments) Bill 1982 receives the Royal Assent. But for this clause 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 amending Act itself received the Royal Assent and this could, but for this clause, result in varying commencement dates if Royal Assent were not to be given in respect of all Bills on the same day.

SALES TAX AMENDMENT (OFF-SHORE INSTALLATIONS) BILL (NOS. 1 TO 4 AND 6 TO 9) 1982

Clause 3 : Certain off-shore installations to be part of Australia

Each of the Principal Acts imposes sales tax on acts or transactions involving goods which are in Australia. As explained in the introductory note, the ambit of the Principal Acts is presently confined to geographical Australia and does not extend to the continental shelf area.

In order to impose tax on an off-shore installation which is to be taken to be attached to the Australian seabed for the purposes of the sales tax law, or on any goods on that installation, each of the Principal Acts is to be amended by inserting a new section - section 2A - which will provide for each such installation to have the status of a place in Australia, for the purposes of both the Principal Act and its corresponding "assessment" Act, for the duration of its attachment. As a consequence of this, any act or transaction involving goods on an installation which would be taxable if the goods were in geographical Australia will, in future, be taxable as if the goods were in Australia.

Proposed sub-section 2A(1) will deem any installation which is taken to be attached to the Australian seabed by virtue of proposed sub-section 3(13) of the Sales Tax Assessment Act (No.1) to be part of Australia. As explained in the notes on proposed sub-section 3(13) at page 15 of this memorandum, such an installation will include both one which is itself attached to the Australian seabed for the purposes described in that sub-section as well as any installation which, while not being attached to the seabed, is attached to another installation which is taken to be attached to the Australian seabed.

By operation of proposed sub-section 2A(2) an installation will continue to be treated as part of Australia until the installation is detached from the Australian seabed and -

(a) at the time of the detachment, it is intended to take the installation to a place outside Australian waters; or

(b) at any time after detachment it is moved for the purpose of being taken outside Australian waters.

In the circumstances referred to in (a) above the installation will cease to be part of Australia from the time of detachment and,in the circumstances described in (b), the installation will cease to be part of Australia from the time when the installation is first moved for the purpose of being taken outside Australian waters. It will make no difference whether the installation is to be taken directly from its position on the continental shelf outside Australian waters or whether it is first to be taken to a place in Australia.

Upon an installation ceasing to be part of Australia as described above, the sales tax law will no longer apply to the installation or to any goods on the installation at the time of its ceasing to be part of Australia except to deem the installation and the goods to be exported at that time.

SALES TAX AMENDMENT (OFF-SHORE INSTALLATIONS) BILL(NO.5)1982

Clause 3 : Insertion of proposed sections 2A to 2E (inclusive)

The purpose of this clause is to insert into the Principal Act several new sections - sections 2A, 2B, 2C, 2D and 2E - which will for the purposes of the Principal Act and the Sales Tax Assessment Act (No.5) 1930, provide that -

(a) an off-shore installation which is attached to the Australian seabed (as defined) is to be treated as part of Australia (proposed section 2A);

(b) an installation which is brought from overseas into Australian waters for the purpose of being attached to the Australian seabed is to be treated as having been imported into Australia (proposed section 2B);

(c) any goods on an installation referred to in (b) above at the time it is taken to be imported to also be treated as having been imported into Australia (proposed section 2B);

(d) any goods brought, from a place outside Australia, onto an installation referred to in (b) above, after it is taken to be imported into Australia to be treated as having been imported into Australia (proposed section 2C);

(e) an installation which ceases to be part of Australia is to be taken to be exported from Australia at the time when it so ceases to be part of Australia (proposed sub-section 2D(1));

(f) an installation which is taken from a place in Australia into Australian waters for the purpose of being attached to the Australian seabed is not to be treated as having been exported from Australia (proposed sub-section 2D(2));

(g) any goods on an installation referred to in (e) above at the time when it ceases to be part of Australia are to be taken to be exported from Australia (proposed sub-section 2D(1));

(h) any goods which are taken to a place outside Australian waters from an installation which is taken to be part of Australia to be treated as having been exported from Australia (proposed section 2E).

Proposed sub-section 2A(1) will deem an off-shore installation which is taken to be attached to the Australian seabed to be part of Australia. Proposed sub-section (2) will provide that such an installation will cease to be part of Australia when it is detached for the purpose, or detached and at any time moved for the purpose, of being taken to a place outside Australian waters.

Proposed section 2A is identical with each of the proposed sections 2A contained in clauses 3 of the Sales Tax Amendment (Off-shore Installations) Amendment Bills (Nos. 1 to 4 and 6 to 9) 1982. An explanation of the nature and effect of the new section is set out on page 19 of this memorandum.

New sub-section 2B(1) will apply where an installation is brought into Australian waters direct from overseas and is taken to be attached to the Australian seabed by virtue of proposed sub-section 3(13) of the Sales Tax Assessment Act (No.1). By the operation of sub-section (1), the installation, together with any goods on the installation at the time when it is, or is taken to be, attached to the seabed, will be deemed to be imported into Australia.

Where an installation is first brought to a place within geographical Australia and the intention is then held or is subsequently formed that the installation will be taken from that place into Australian waters to be attached to the seabed, proposed sub-section 2B(2) will apply. In these circumstances, the installation, together with any goods which were on the installation at the time when it was first brought into Australia, will be deemed to have been imported into Australia at that time.

The effect of this proposed section will be that, subject to any overriding exemptions provided by the Sales Tax (Exemptions and Classifications) Act 1935, an installation and goods on the installation will be liable to sales tax as if the installation and the goods had been imported into mainland Australia.

In practical terms, however, section 2B will not subject to sales tax an installation itself insofar as that installation is for use in the mining industry in carrying out mining operations or in the treatment of the products of those operations. Such an installation is, in the circumstances referred to, exempt from sales tax by virtue of item 14 of the First Schedule to the Sales Tax (Exemptions and Classifications) Act 1935. However, certain attachments to or parts of an installation, for example, those attachments or parts used for the comfort, entertainment or recreation of persons living on an installation could be subject to sales tax. Attachments or parts of this kind which could be taxable would include cinema equipment, inbuilt or fixed sporting equipment, floor coverings and kitchen equipment.

Proposed section 2C will ensure that any goods which are brought onto an installation which is deemed to be part of Australia from a place outside Australia will be liable to sales tax as if those goods had been imported into geographical Australia. This will be achieved by deeming these goods to have been imported into Australia at that time for the purposes of the Principal Act and the Sales Tax Assessment Act (No.5). But for such a provision, goods brought onto an installation might not technically have been imported into Australia.

Proposed sub-section 2D(1) will apply to an installation which is detached from the Australian seabed, or from another installation which is attached to the Australian seabed, and which by the operation of proposed sub-section 2A(2), ceases to be part of Australia. In this situation, proposed sub-section 2D(1) will deem -

(a) the installation; and

(b) any goods on the installation at the time it ceases to be part of Australia,

to be exported from Australia. The effect of this sub-section will be that sales tax paid on the installation or any goods on the installation could be made the subject of an application for refund of the tax under sub-regulation 58(1) of the Sales Tax Regulations or could be entitled to drawback of sales tax under section 11A of the Sales Tax Assessment Act (No.5).

By proposed sub-section 2D(2) an installation which is taken from a place in Australia into Australian waters for the purpose of being attached to the Australian seabed shall not be regarded as having been exported from Australia. Accordingly, no eligibility will arise for a refund or drawback of any tax paid on that installation or goods on that installation.

Proposed section 2E will apply to goods which are taken from an Australian installation (as defined) for the purpose of being taken to a place outside Australia. Those goods will be deemed to have been exported from Australia at the time they are taken from the installation. The proposed section 2E, which is complementary to proposed section 2C, is designed to ensure that goods which are taken from an installation in the circumstances described are treated as being exported for the purposes of the Principal Act and the Sales Tax Assessment Act (No.5). This will mean that sub-section 4(3) of that latter Act (which deals with export of goods for repair) will apply to such goods.

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT (OFF-SHORE INSTALLATIONS) BILL 1982

Clause 1 : Short title, etc.

Sub-clause 1(1) formally provides for the short title and citation of the amending Act. By sub-clause (2) the Sales Tax (Exemptions and Classifications) Act that is being amended is referred to as "the Principal Act".

Clause 2 : Commencement

As the amending Bill is part of a package of Bills designed to uniformly apply existing revenue, health and immigration laws to off-shore installations of the kind described earlier in this memorandum, it is proposed that all Acts will have a common date of commencement.

Under this clause the amending Act will come into operation, or will be deemed to have come into operation, on the twenty-eighth day after the Off-shore Installations (Miscellaneous Amendments) Bill 1982 receives the Royal Assent. But for this clause 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 amending Act itself received the Royal Assent and this could, but for this clause, result in varying commencement dates if Royal Assent were not to be given in respect of all Bills on the same day.

Clause 3 : Insertion of proposed sections 6D to 6H (inclusive)

The purpose of the Principal Act is to specify, by Schedules, the classes of goods in respect of which sales tax is either not payable (exempt goods) or is payable at particular rates (classified goods) when those goods are the subject of acts or transactions on which tax is imposed by any of the Sales Tax Acts (Nos. 1 to 9).

The First Schedule specifies those goods which are exempt from sales tax. The Second, Third, Fourth and Fifth Schedules specify those goods which are liable to tax at the rates specified for goods in those Schedules by the Sales Tax Acts (Nos. 1 to 9). These rates are 30 per cent (Second Schedule), 5 per cent (Third Schedule) and 17½ per cent (Fourth and Fifth Schedules). Goods which are not specified in any Schedule of the Principal Act are taxable at the general rate - currently 17½ per cent.

By this clause, the Principal Act is to be amended to insert proposed sections 6D to 6H. Proposed section 6D is identical to each of the proposed sections 2A to be inserted in the Sales Tax Acts by the Sales Tax Amendment (Off-shore Installations) Bills (Nos. 1 to 9) 1982 and proposed sections 6E to 6H are identical to proposed sections 2B to 2E to be inserted in the Sales Tax Act (No.5) by the Sales Tax Amendment (Off-shore Installations) Bill (No.5) 1982.

The effect of the various proposed sections is described in the notes on clause 3 of the Sales Tax Amendment (Off-shore Installations) Bill (No.5) 1982 (page 20 of this memorandum). The table that follows sets out the sections to be inserted in the Principal Act, showing cross references to the corresponding sections (if any) to be inserted by the Sales Tax Amendment (Off-shore Installations) Bills (Nos. 1 to 9) 1982 and the pages in this Explanatory Memorandum at which an explanation of those proposed sections may be found.

Proposed section or sub-section in Principal Act	Corresponding proposed section or sub-section being inserted by the Sales Tax Amendment (Off-shore Installations)		Page of this memorandum explaining amendments being inserted by the Sales Tax Amendment (Off-shore Installations)		Remarks
	Bills (Nos. 1 to 4 and 6 to 9)	Bill (No.5)	Bills (Nos. 1 to 4 and 6 to 9)	Bill (No.5)	
6D(1)	2A(1)	2A(1)	19	21	This amendment will treat an off-shore installation which is attached to the Australian seabed as part of Australia.
6D(2)	2A(2)	2A(2)	19	21	This amendment will specify when an installation ceases to be part of Australia.
6E(1)	-	2B(1)	-	21,22	This amendment will deem an installation, and any goods on it, to be imported into Australia.
6E(2)	-	2B(2)	-	21,22	This amendment will deem an installation (together with any goods on it) brought to Australia and

					which is to be taken to the seabed to be attached, to be imported into Australia.
6F	-	2C	-	22	This amendment will deem goods brought onto an installation from overseas to be imported into Australia.
(6G(1)	-	2D(1)	-	22	By this amendment, an installation (together with any goods on it) which ceases to be part of Australia will be deemed to be exported.
6G(2)	-	2D(2)	-	22	This amendment will deem an installation (and any goods on the installation) taken from Australia to be attached to the seabed
6H	-	2E	-	23	This amendment will deem goods taken overseas from an installation to be exported from Australia.

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